

The Gazette of India



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Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART III—SECTION 1

Notifications issued by the High Courts, the Comptroller and Auditor General, the Union Public Service Commission, the Indian Government Railways, and by Attached and Subordinate Offices of the Government of India.

UNION PUBLIC SERVICE COMMISSION

NOTIFICATION

New Delhi, the 17th September 1951

No. F.1/24/51-Ests.—Shri Rajendra Lal of the Central Secretariat Service, Grade I, is appointed to the post of Under Secretary, Union Public Service Commission with effect from the forenoon of the 4th September, 1951.

D. C. DAS,

Secretary,

Union Public Service Commission.

OFFICE OF THE CONTROLLER OF PRINTING & STATIONERY, INDIA

NOTIFICATION

New Delhi, the 17th September 1951

No. 261/AFD/51.—Shri A. A. Whitley is appointed to officiate as Manager of Publications, Delhi, with effect from the 7th September, 1951, relieving Shri S. R. Dutt.

E. V. GREGORY,

Controller of Printing & Stationery, India.

INSPECTOR GENERAL OF POLICE, S.P.E.

NOTIFICATION

The 17th September 1951

No. 10871/14/SPE/49(176).—The resignation from service submitted by Shri D. C. Augad, temporary Prosecuting Inspector, Special Police Establishment, Bombay is accepted with effect from 2nd September, 1951.

SITA RAM DATT,

Administrative Officer,
for Inspector General of Police.

INDIAN AUDIT AND ACCOUNTS DEPARTMENT

Leave and Appointments

NOTIFICATIONS

New Delhi, the 18th September 1951

No. 3897-GE/N-3/PF.—Shri T. Narasimhan, an officer of the Indian Audit and Accounts Service has been posted to the office of the Accountant General, West Bengal, Calcutta as Examiner, Outside Audit Department with effect from the 4th September, 1951.

No. 3902-GE/7-G/PF.—Shri D. D. Dhingra, an officer of the Indian Audit and Accounts Service, has been posted as Deputy Accountant General (Senior), in the office of the Accountant General, Punjab, Simla, with effect from the 13th August, 1951.

No. 3914-GE/47-51.—Shri Sohan Lal Suri, Assistant Audit Officer, Eastern Punjab Railway, Delhi, took over charge of the post of Assistant Audit Officer in Railway Clearing Accounts Office, Delhi, with effect from 11th August, 1951.

No. 3915-GE/47-51.—Shri D. R. Sawhney, return from leave on average pay for two months, joined as Divisional Audit Officer, Delhi and Ferozepore Divisions, Eastern Punjab Railway, New Delhi on 11th August, 1951.

No. 3916-GE/C-3/PF.—Shri K. J. Chandwani, an officer of the Indian Audit and Accounts Service, has been posted as Deputy Chief Auditor, Assam Railway, in the office of the Chief Auditor, Assam Railway, Pandu, with effect from the 31st August, 1951.

No. 3958-GE/53-51.—Shri D. H. Apte, Assistant Accounts Officer has been granted privilege leave for 21 days on full pay from 5th February, 1951 to 25th February, 1951 and furlough on half pay from 26th February, 1951 to 28th February, 1951.

No. 3959-GE/40-51.—Shri J. C. Ghatak, a member of the Subordinate Accounts Service, Local Audit Branch, in the office of the Accountant General, Bihar, has been appointed to officiate as an Assistant Accounts Officer in the Local Audit Branch of that office with effect from 6th September, 1951 until further orders.

No. 3960-GE/40-51.—Shri P. K. Biswas, a member of the Subordinate Accounts Service of the office of the Accountant General, Bihar, Ranchi has been appointed to officiate as an Assistant Accounts Officer in that office with effect from the 4th September, 1951 until further orders.

No. 3966-GE/P-3/PF.—On return from leave, Mr. G. H. PoSaw, an officer of the Indian Audit and Accounts Service has been appointed to officiate in Class II of the Accountants' General Grade with effect from the 11th September 1951, and posted as Accountant General, Rajasthan, Jaipur, from the same date.

No. 3975-GE/Z-2/PF.—Mr. S. A. K. Zaidi has been posted to the Office of the Accountant General, Madhya Pradesh, Nagpur, as Deputy Accountant General (Junior) with effect from the 20th August, 1951.

No. 3996-GE/S-14/PF.—On return from leave, Shri S. K. Sarkar, an officer of the temporary Emergency Cadre of the Indian Audit and Accounts Service, has been re-posted to the office of the Accountant General, West Bengal, Calcutta, as Deputy Accountant General (Senior) with effect from the 10th September, 1951. The un-expired portion of his leave from 10th September, 1951 to 15th September, 1951 has been cancelled.

No. 3998-GE/R-8/PF.—Shri K. L. Rajagopal Rao, an officer of the Indian Audit and Accounts Service, has been granted leave on average pay for three weeks with effect from the 10th September, 1951.

P. D. PANDE,

Dy. Comptroller & Auditor General of India.

MINISTRY OF DEFENCE
Directorate General, Ordnance Factories

NOTIFICATIONS

Calcutta, the 14th September 1951

No. 105/51/E.—Mr. K. K. Chakrabarty, Offg. A.W.M., Rifle Factory, Ishapore, is granted privilege leave for 4 months, 22nd August, 1951.

No. 106/51/E.—Mr. K. C. Chakravarty, Offg. A.W.M., Machine Tool Prototype Factory, Ambarnath, was granted earned leave for 73 days, 18th August 1951, with permission to affix holidays, 30th and 31st October 1951, to his leave.

The 20th September 1951

No. 107/51/E.—Mr. I. K. Nayak, Assistant Works Manager, under training, Ordnance Factory, Kanpur was granted earned leave for 32 days, 22nd August 1951, with permission to affix Sunday, 23rd September 1951, to his leave.

K. K. FRAMJI,
Director General, Ordnance Factories.

MINISTRY OF LABOUR

Regional Directorate of Resettlement & Employment

NOTIFICATIONS

Madras, the 19th September 1951

No. L. Dis. 20911/51.—Shri Joseph Christopher, Assistant Employment Officer (Technical), Madurai is granted 30 days' earned leave with effect from 3rd September 1951 with permission to avail himself of Sunday the 2nd September 1951.

On the expiry of his leave, he will rejoin the same post at the same station.

S. A. QADIR,
Regional Director.

Calcutta, the 21st September 1951

No. 3L-34/51/15644.—Earned leave for thirty days with effect from the 16th July, 1951 to the 14th August, 1951 with permission to suffix the 15th August, 1951, closed holiday on account of the 'Independence Day' was granted to Sri B. C. Roy, Assistant Employment Officer, Sub-Regional Employment Exchange, Barrackpore. There was every likelihood of the officer returning to the same post and station on the expiry of the leave.

This Directorate notification No. 3L-34/12038, dated the 23rd July 1951 is hereby cancelled.

N. M. MAJUMDAR,
Regional Director of Resettlement & Employment, West Bengal.

Bombay, the 22nd September 1951

No. RE/48(12)/3497.—Under Rule 12 of the Revised Leave Rules 1933, earned leave for a period of fifteen days is granted to Shri G. C. Jumde, Assistant Employment Officer, Sub-Regional Employment Exchange, Parel, Bombay with effect from 24th September 1951 to 8th October 1951 (both days inclusive) with permission to prefix and suffix Sunday, 23rd September 1951 and a public holiday on 9th October 1951 respectively. He will resume the same post on expiry of his leave.

M. G. MONANI,
for Regional Director of Resettlement & Employment, Bombay.

Office of the Chief Labour Commissioner
New Delhi, the 22nd September 1951

No. CLC-14(185)/Adm.—Shri J. N. Gupta, Labour Inspector (Central), Nagpur-II, was granted earned leave for 10 days with effect from 22nd August 1951 to 31st August 1951 (both days inclusive). On return from leave he was posted to Hubli where he took over charge of his office on 6th September 1951 F.N.

L. C. JAIN, I.C.S.,
Chief Labour Commissioner.

LABOUR APPELLATE TRIBUNAL OF INDIA

NOTIFICATION

Calcutta, the 11th September 1951

No. LA. 6(2)/3237.—The following decisions of the Bombay Bench of the Tribunal are published for general information :—

1. Appeal No. Bom-24 of 1951.
2. Appeal No. Bom-7 of 1951.
3. Appeal Nos. 169, 170, 171, 177, 178, 179, 180, 181, 182 and 183 of 1950.
4. Appeal Nos. 39 and 46 of 1950.
5. Appeal No. 29 of 1950.
6. Appeal Nos. Bom-14 & Bom-27 of 1951.
7. Appeal No. Bom-21 of 1951.
8. Appeal Nos. Bom-43 & Bom-50 of 1951.
9. Appeal Nos. Bom-47 & Bom-62 of 1951.

J. N. MAJUMDAR,
Chairman,
Labour Appellate Tribunal of India.

Appeal (Bom.) No. 24 of 1951

Singer Sewing Machine Company, 207
Hornby Road, Fort, Bombay.

Appellant.

Versus

The Madras Province Singer Sewing
Machine Company Employees Associa-
tion, Erode, South India.

Respondent.

In the matter of an appeal against the award of the Industrial Tribunal for the Adjudication of Disputes (Sri P. Markandeyalu) Madras, published in the Fort St. George Gazette, dated the 26th December 1950.

The 2nd day of May 1951

Present :

Mr. K. P. Lakshmana Rao, President.

Mr. F. Jeejeebhoy, Member.

Appearances :

For the Appellant :

Sri O. T. G. Nambiar, instructed by Messrs. King and Partridge, Solicitors.

For the Respondent :

Sri T. A. Anantha Aiyar, Advocate, instructed by Messrs. R. Dandapani, Vice-President and K. Ramaswamy Iyar, Secretary, and T.V.N. Swamy, Assistant Secretary of the Respondent Association.

State.—Madras.

Industry.—Miscellaneous (Sewing Machines).

DECISION

This is an appeal against the award of the Industrial Tribunal constituted to adjudicate upon the industrial dispute between the workers and the management of the Singer Sewing Machine Co. Ltd., in all its branches in Madras State. The order of Reference in annexure "B" gave five heads of dispute; but at a latter stage an additional issue was urged concerning Mr. A. P. Rossvan and Mr. T. P. Subramania Ayyar, and the learned Adjudicator framed two additional issues regarding them.

2. The appellant's contentions before us relate to (a) the case of the two persons Mr. A. P. Rossvan and Mr. T. P. Subramania Ayyar and (b) the emoluments and other conditions of service of the Managing Salesmen and the Assistant Managing Salesmen.

3. We shall first deal with the case of Messrs. A. P. Rossvan and T. P. Subramania Ayyar. These two employees were permanent Supervisors or District Managers till 1944 when as a measure of retrenchment they were reduced to the position of Managing Salesmen. They have had no complaint against their demotion in 1944, but they assert that at the time of their demotion they had been assured by the management that if more Supervisors or District Managers were appointed in the future they would receive promotion to such posts. That assurance has not been denied by the management. In 1949 the company decided to create three posts of Supervisors or District Managers in the Madras Area, but ignored the claims of these two employees for those

appointments; and in fact persons junior to them secured the promotion. The management contended before the Adjudicator that matters of promotion are matters within the discretion of the management and that the management is justified in selecting for promotion younger and more energetic persons, but the learned Adjudicator came to the conclusion that these two employees in question were entitled to promotion and ordered accordingly. When the matter was being argued before us, we pointed out to learned Counsel for the appellant that as the company had given the assurance of promotion it should honour such assurance irrespective of the validity or otherwise of their other contentions; the management accepted this view and have agreed to promote Mr. A. P. Rossvan and Mr. T. P. Subramania Ayyar as District Managers, and it is ordered accordingly. In this connection we are of the view that the allegations of victimisation and unfair labour practice made against the management are not justified.

4. It was next contended on behalf of the appellants that the pay of Managing Salesmen and Assistant Managing Salesmen should not have been increased. The increases which have been granted are as follows:—

Managing Salesmen :

Madras—Rs. 100 increased to Rs. 150.

Trichinopoly—Rs. 75 increased to Rs. 120.

Mofussil—Rs. 55 increased to Rs. 100.

Assistant Managing Salesmen :

Madras—Rs. 40 increased to Rs. 75.

Trichinopoly—Rs. 40 increased to Rs. 70.

Mofussil—Rs. 40 increased to Rs. 60.

5. Prior to 1945 these two categories were not given any salary, but worked solely on commission. It was, however, then represented that as a result of the war their commission had been affected, and therefore in order to give them relief the company agreed that they should receive a salary as a starting emolument plus commission. The salary then fixed was as stated above, and commission was given at the following rates :

Managing Salesmen :

In Madras 2 per cent. on quota sales, 1 per cent. on extra quota sales and 3 per cent. on spare parts.

In the rest of the State 5 per cent. on quota sales, 2½ per cent. on extra quota sales and 10 per cent. on spare parts.

Assistant Managing Salesmen :

In Madras 1 per cent. on quota sales, 1/2 per cent. on extra quota sales and 3 per cent. on spare parts.

In the rest of the State 2½ per cent. on quota sales, 1 per cent. on extra quota sales and 5 per cent. on spare parts.

6. Apart from raising the fixed salary as stated above, the learned Adjudicator has abolished the difference in commission between quota and extra quota sales and has given commission on all sales on the scale of quota sales as prevailing before this adjudication.

7. It has been urged before us that the learned Adjudicator had no grounds for increasing the salaries of the Managing Salesmen and the Assistant Managing Salesmen. The learned Adjudicator has taken the view that it was not necessary for him to scrutinise the statements showing the average earnings from 1945 as, according to him, it was admitted that the average income of the employees now is not more than what it was before 1945; that the Managing Salesmen and the Assistant Managing Salesmen had been in the service of the company for a large number of years and had been getting more or less the same income during the period; that even assuming that all the employees were getting a reasonably adequate income, still the aim of the Industrial Tribunal should be to increase their standard of living by approximating their income to what is called fair wages ultimately with a view to giving them a living wage, and that this depended upon the capacity of the employer.

8. As regards the capacity to pay, it is undoubtedly true that this concern has established a very considerable reputation for itself in sewing machines, so much so that the Indian Tariff Board has recommended the levy of a protective duty in the interests of indigenous production. But the very fact that this company is now obliged to compete with similar concerns and has to bear the burden of protective duty necessarily means that the company's capacity to pay is to that extent limited by factors beyond its control.

9. There are two important aspects of the subject which we must consider : firstly, it cannot be denied that since

1945 there has been a rise in the income of the Managing Salesmen and of the Assistant Managing Salesmen, and this is evidenced by Ex. 4, which is a statement of the monthly average income of 1944, compared to the monthly average income of 1948. It shows generally a considerable advance in the income of the employees during that period. For instance in Bangalore City the Managing Salesman was getting Rs. 250 in 1944 whereas in 1948 he was getting Rs. 380. In Mysore his emoluments rose from Rs. 183 to Rs. 319. In Trichinopoly it has risen from Rs. 235 to Rs. 335 and in Trivandrum from Rs. 144 to Rs. 215. In Madras it has been a little less. There are also some other instances in which the emoluments have fallen, but they occur generally in small and out of the way places and may be due to a variety of causes; but taken as a whole there has been a fair increase in the earnings of these employees after 1944. It is next said that there has been no increase in the fixed salary from 1945; that is true, but we must also take into consideration the fact that a higher commission contains within itself what would otherwise have been an increase of basic salary plus an increase of dearness allowance; the fixed start of salary has been given to the employees as a sort of security in case he is not able to earn any commission, and is to that extent different to a salary in the sense of a fixed basic pay. It is also urged that the cost of living has gone up since 1945, without any advance of pay or payment of dearness allowance, but the company replies that the prices of machines have also advanced, and consequently the commissions earned have also increased, tending to the neutralisation of the cost of living to that extent.

10. The second aspect for consideration is whether the wages plus commission compare favourably with what prevails in Bombay where the cost of living is in fact higher than in Madras. There had been a dispute in Bombay between the employees of this concern and the management and it was referred to the adjudication of the Industrial Tribunal at Bombay. The parties came to a settlement which was made an award of the Tribunal on 28th January 1950. One of the claims there made was that the basic quota on selling of machines should be removed and 5 per cent. selling commission should be allowed on all sales made and that selling commission on parts should be increased to 10 per cent. The parties came to an agreement that these demands and all other demands referred to the Tribunal in so far as they related to the Managing Salesmen and Assistant Managing Salesmen generally would be dropped; but without prejudice to the parties' contentions, the company agreed to give to the Managing Salesmen and the Assistant Managing Salesmen on retirement, retrenchment or resignation a sum equivalent to the fixed salary in each case as on 1st January 1950 multiplied by the number of years' service. This means that the scale of pay of the Managing Salesmen and the Assistant Managing Salesmen as well as their scales of commission remained untouched by the results of that Reference; and it was one of the terms of the agreement that except where Managing Salesmen and Assistant Managing Salesmen had been specifically mentioned, the terms would not apply to them. It would seem as if that these two categories in Bombay either did not consider themselves as properly within the terms of the Reference or dropped their claim to a higher scale of pay and commission. It is, however, different in the case before us. It is here urged that the increased emoluments have not kept pace with the rise in the cost of living, and that even if the learned Adjudicator had been somewhat lavish in the increase of pay which he had given, some increases were clearly indicated. We have carefully considered this question and while we recognise that total earnings have risen since 1945, we feel that having regard to all the facts there is substance in the claim for a higher start: the fixed salary has remained the same since 1945 without any revision in the following years during which basic salaries have generally advanced; and the capacity of the company to pay a higher level of fair wage cannot be disputed. The starting pay is not the basic pay, but nevertheless partakes of that character to the extent of the starting salary, and we feel that on the facts to keep the fixed starting pay anchored to the 1945 standard is not right. In Delhi the starting pay for the Managing Salesman is 150 and for the Assistant Managing Salesman is 40. In Calcutta the Managing Salesman gets 150 and the Assistant Managing Salesman 125. We are of the opinion that it would be reasonable to increase the fixed salary of the Managing Salesmen and Assistant Managing Salesmen by 25 per cent. and we order accordingly.

11. As regards the scale of commission, it is a well recognised practice that as the number of sales increases the percentage of commission diminishes. In any

event, we think that this is a matter primarily within the jurisdiction of the management, so long as we are satisfied that the emoluments paid constitute a fair wage. In the case before us it does not appear as if the total emoluments of these two categories is below a reasonable level of a fair wage, and we think that the learned Adjudicator was in error in altering the rates of commission. The original rates will therefore be restored.

12. On the question of bonus it has been urged before us that the Managing Salesmen and Assistant Managing Salesmen should not have been given any bonus on the ground that they were already getting a living wage. We are unable to agree. To begin with there is no evidence as to what the living wage should be for this particular category of employees; and secondly, we do not think that from the figures alone which have been placed before us we could conclude that a level of living wage has been attained. It may be that the similar two categories in Bombay have not thought fit to press their claims, but we are unable to refuse the claim before us merely on the alleged ground that a living wage has been already reached. It is further objected that the bonus which has been given is excessive, because it is the equivalent of $1\frac{1}{2}$ months of the total pay including commission, but we do not see any reason to interfere in the quantum of bonus which has been given.

13. A similar objection has been raised against the inclusion of the Managing Salesmen and Assistant Managing Salesmen in the Scheme of Provident Fund, but we see no reason to exclude these two categories from the Scheme.

14. Issue 5(b) relates to the question of gratuity, and we have been asked by the management to exclude the Managing Salesmen and Assistant Managing Salesmen from the benefits of the gratuity scheme we are quite unable to do so. We see no reason why these two categories should not have the protection of the gratuity scheme in a concern of such standing. The learned Adjudicator appears to have given them the same gratuity as given to similar employees in Bombay, subject to two conditions, and we see no reason to interfere.

15. As no appeal has been filed by the employees as to the terms of the Provident Fund or Gratuity Scheme, those terms will stand.

16. The award of the Adjudicator below will therefore be modified to the extent stated in this decision. No order as to costs.

K. P. LAKSHMANA RAO,
President.

F. JEEJEEBHoy,
Member.

Appeal (Bom.) No. 7 of 1951

Messrs. Simpson & Co., Ltd., 202, Mount Road, Madras.

Appellant.

Versus

Mr. A. Martin, 45, Mahomadan Street, Perambur, Madras.

Respondent.

In the matter of an appeal against the award of the Industrial Tribunal I, Madras, (Sri A. M. R. Davidar), I.A. No. 1 of 1950 in I.D. No. 15 of 1949, published in the Fort St. George Gazette, dated 12th December 1950.

The 1st day of May 1951

Present :

Mr. K. P. Lakshmana Rao, President.

Mr. F. Jeejeebhoy, Member.

Appearances :

For the Appellant :

Shri V. Ramalinga Iyer, Labour (Law) Officer of the Company.

For the Respondent :

Shri R. Dandapani, Advocate.

State.—Madras.

Industry.—Engineering.

DECISION

This is an appeal against the award of the Industrial Tribunal I, Madras, on an application under section 33A of the Industrial Disputes Act, 1947, ordering the reinstatement of the respondent. It was alleged by the respondent that during the pendency of an adjudication he had been illegally and unjustifiably discharged by the

management in contravention of section 33 of the Act. The learned Adjudicator came to the conclusion that the respondent had not left the company of his own accord or by operation of any Standing Order; and that the refusal of the appellant company to allow him to continue in his work constituted a violation of section 33 of the Act. We find, however, that there is a substantial question of law involved. It has been contended before us that the respondent is not a "workman" within the meaning of the Industrial Disputes Act and that therefore he had no *locus standi* to make the application.

2. "Workman" has been defined in the Industrial Disputes Act as meaning any person employed in any industry to do any skilled or unskilled manual or clerical work for hire or reward. This Tribunal has held that if an employee desires to invoke section 33A of the Industrial Disputes Act, he must satisfy the preliminary condition that he is a "workman" within the meaning of the Act. It is therefore necessary to see whether the respondent is a "workman" and therefore entitled to make this application under section 33A.

3. The point resolves itself firstly into a question of fact as to what the duties and responsibilities of the respondent were, and secondly the question of law whether upon a consideration of those duties and responsibilities the employee can be regarded as a "workman".

3. We have been asked on behalf of the respondent to refer the question of fact to the Tribunal below for investigation and report, but it is unnecessary to do so. The respondent himself has furnished on 28th March 1951, at a date after the dispute had matured, a full list of his duties and responsibilities. We reproduce below the contents of his letter of that date :

"The Deputy Works Manager,
Messrs. Simpson & Co. Ltd.,
MADRAS.

Sir,

SUB.—Motor Department—alterations of conditions of service during the pendency of appeal—cancellation requested for.

Ref. Your memo. No. DW.VN.21 of the 26th instant addressed to Motor Department, copy to me for information, I have to submit the following facts for your consideration and necessary action :—

By the list of Duties dated 22nd December 1948 assigned to me by you and countersigned by me, I have been asked to carry out and I have been carrying on the following duties, immediately before the filing of an appeal by you :—

1. Receive all vehicles that are being sent for fitment of Diesel engines.
2. Examine same and find out whether they are suitable for conversion.
3. Indicate to the Department concerned or to the customer the estimated amount of work to be done and when the job can be completed.
4. Supervise the conversion and fitment and guide workmen wherever necessary.
5. Test after fitment is completed before releasing the vehicle.
6. Arrange for servicing Diesel vehicles that are being sent periodically, attending to repairs and adjustments.

You are also aware that you have filed an appeal against my reinstatement and it is pending enquiry before the LABOUR APPELLATE TRIBUNAL.

By your aforesaid memo., under reference, you have prejudicially altered the conditions of my service during pendency of the appeal in contravention of section 22 of the Industrial Disputes (Appellate Tribunal) Act of 1950 by depriving me of my sole duties.

Please, therefore, note that in case you are not going to withdraw the above memo. forthwith, I shall be constrained to take necessary action, under section 23 of the aforesaid Act.

Yours faithfully,
A. MARTIN.

4. It is evident from a consideration of items 1 to 6 of that letter that the respondent could not by any stretch of language be regarded as a "workman" within the meaning of the Industrial Disputes Act. To begin with he has been designated as a foreman, which indicates a supervisory status and his duties and responsibilities do not involve any manual work save

and except such as is necessary in connection with his supervisory functions. Even under the relevant standing orders of the company the respondent would not be a workman. According to Standing Order 2(a) of the earlier Standing Orders which came into force from 1st May 1948 "worker" means a person employed by the company in connection with the company's business and whose name is entered in the company's muster roll on pay roll but does not include Managers, Engineers, Assistants, Foremen, Timekeepers, clerks, typists, cashiers, salesmen and peons and any employees under special contract or agreement. According to the subsequent standing orders of 1950 'worker' means a person employed by the company in connection with the company's business whose name is entered in the company's muster roll or pay roll and who is a worker as defined in the Factories Act, 1948, and the rules made thereunder. As the respondent is not a "workman", there could be no contravention of the provisions of section 33 of the Industrial Disputes Act, and the application made under section 33 A of the Act is incompetent.

5. In the result, we set aside the award of the Industrial Tribunal below, and the application of the respondent under section 33 A is dismissed. No order as to costs.

K. P. LAKSHMANA RAO,
President.
F. JEEJEEBHoy,
Member.

Appeal No. 169 of 1950

The Shrinagar Mills Co. Ltd.,
Ahmedabad, Appellant.
versus
The Textile Labour Association, Bhadra,
Ahmedabad, Respondent.

Appeal No. 170 of 1950

Shri Ambica Mills Limited No. 2,
Ahmedabad, Appellant.
versus
The Textile Labour Association,
Ahmedabad, Respondent.

Appeal No. 171 of 1950

Shri Ambica Mills Ltd., No. 1,
Ahmedabad, Appellant.
versus
The Textile Labour Association,
Ahmedabad, Respondent.

Appeal No. 177 of 1950

Jehangir Vakil Mills Co. Ltd.,
Ahmedabad, Appellant.
versus
The Textile Labour Association,
Ahmedabad, Respondent.

Appeal No. 178 of 1950

The Aruna Mills Co. Ltd., Ahmedabad, Appellant.
versus
The Textile Labour Association,
Ahmedabad, Respondent.

Appeal No. 179 of 1950

The Nutan Mills Co., Ltd.,
Ahmedabad, Appellant.
versus
The Textile Labour Association,
Ahmedabad, Respondent.

Appeal No. 180 of 1950

The Raipur Mills Co. Ltd., Ahmedabad, Appellant.
versus
The Textile Labour Association,
Ahmedabad, Respondent.

Appeal No. 181 of 1950

The New Cotton Mills Co., Ltd.,
Ahmedabad, Appellant.
versus
The Textile Labour Association,
Ahmedabad, Respondent.

Appeal No. 182 of 1950

The Saraspur Mills Co. Ltd.,
Ahmedabad, Appellant.
versus
The Textile Labour Association,
Ahmedabad, Respondent.

Appeal No. 183 of 1950

The Arvind Mills Co. Ltd., Ahmedabad, Appellant.
versus
The Textile Labour Association,
Ahmedabad, Respondent.

In the matter of appeals against the Order of the Industrial Court (Shri P. S. Bakhle) Bombay, in Appeals (IC) Nos. 59, 72, 73, 68, 56, 64, 70, 79, 58, 46, 48, 49, 50, 51 and 61 of 1950, dated the 25th October 1950.

The 15th day of May 1951

Present :

Mr. R. C. Mitter, President.

Mr. F. Jeejeebhoy, Member.

Appearances :

For the Appellants in Appeals Nos. 169, 178, 180, 181, 179, 182 and 183 :

Shri Prabhudas B. Patwari, Permanent Legal Adviser and Shri C. H. Desai.

For the Appellants in Appeal No. 178 :

Shri Prabhudas B. Patwari and Shri Ramaniklal C. Patel.

For the Appellants in Appeals 170 and 171 :

Shri M. A. Jagani, Manager of the Mills.

For the Respondents :

Shri Shantilal H. Shah, Solicitor, with Shri S. P. Dave (Textile Labour Association, Ahmedabad).

State.—Bombay.

Industry.—Textile (Cotton).

DECISION

1. In these ten appeals the same question has arisen for determination, and we shall deal with them in this single decision.

2. The facts are simple and not in doubt. On 27th December 1946, the Textile Labour Association gave a notice of change to the Ahmedabad Millowners' Association on questions relating to contract labour, fixation of minimum wage and standardization of wages. As the parties could not reach any settlement, on 3rd June 1947 the Bombay Government referred the dispute for arbitration under section 49-A of the Bombay Industrial Disputes Act, 1938. The Bombay Industrial Court, after fixing the minimum wage at Rs. 28 for a month of 26 working days, on 1st October 1947 appointed an Assessor to prepare and present a scheme of standardization of wages. The Assessor submitted the scheme to the Industrial Court on 23rd February 1948, wherein he observed as follows :—

"It is also desirable to make it clear that in case of occupations to which standard or minimum wages are to be paid all other concessions and privileges such as rent free or cheap residential accommodation, free fuel and lighting etc., should be discontinued or their value assessed by independent party and deducted from the wages of the employees if such reduction is authorised under the Payment of Wages Act,"

and to emphasise the same point he later observed :

"The wages and rates are inclusive of all existing allowances, bonus etc., but exclusive of dear food allowance. No allowance should be paid if it is not specifically mentioned in this list."

3. The Court duly took into consideration the Assessor's report and made its award on 21st April 1948. It was then contended before the Court on behalf of the Mill-owners' Association that the money value of the amenities given by the mills to their operatives should be deducted from their wages as recommended by the Assessor in terms aforesaid. The Court, however, came to the conclusion that it was concerned only with the standardisation of wages, that the question of amenities was not before it, and that there were no definite materials before it to suggest any deductions from the rates of wages suggested by the Assessor.

4. Thereafter the proceedings giving rise to these appeals arose in this manner. Prior to this award of the Industrial Court the mills at Ahmedabad had been giving to some pahrawalas, jamadars and sepoys in their employ certain amenities such as rent free or cheap residential accommodation, free fuel and lighting etc. In the several cases before us the Labour Court, as well as the Industrial Court below, have found as matters of fact that certain amenities had been provided by the respective mills, and we are not prepared to interfere with their conclusions on those points. Some time after the 1948 award, the mills concerned either discontinued the amenities or made deductions from wages on account of the same. There was opposition to this from the Textile Labour Association, and the parties agreed that the matter be referred to the Labour Court for an interpretation of the award on this point. The Labour Court in interpreting the award came to the conclusion that the discontinuance of amenities or the making of deductions from wages was neither warranted nor permissible under the award. An appeal followed to the Industrial Court and the result of the appeal did not in any way further the question, for the Court held that the award of 1948 neither permitted nor prohibited the amenities being discontinued or any deductions being made therefrom, and that therefore no question of interpretation of the award arose as the subject matter was treated as foreign to the questions at issue before the Court; the application of the Textile Labour Association was therefore dismissed on the 18th January 1949.

5. The next stage was reached when on 1st June 1949 the Textile Labour Association filed applications before the Labour Court at Ahmedabad under section 79 read with section 46 of the Bombay Industrial Relations Act for a declaration of an illegal change and for direction to the mills to withdraw the illegal change. It was alleged in the petition that sepoys, pahrawalas and Jamadars used to be given rent free quarters, fuel, oil for lighting, uniforms etc., and that such customary privileges had been withdrawn without any notice, intimation or procedure under the Bombay Industrial Relations Act, even though such concessions formed part of wages and remuneration payable to these employees. The employers by their written statement admitted that certain of the benefits had been previously provided to the employees, but that they were ex-gratia as and when thought desirable and totally discretionary on the part of the mills; they denied that such amenities were customary concessions or privileges or that they were suddenly withdrawn. They contended that as a result of the standardization award the wages of the employees had substantially increased and it was thought desirable to charge the value of house accommodation and to modify other reliefs where necessary and they did so about the middle of 1948. They denied that any notice of change was necessary, and further contended that since the withdrawal of the amenities was effected in the middle of 1948 the applications were barred by limitation. The Labour Court decided against the employers, and on appeal the Industrial Court below has come to the conclusion that the amenities which the mills had been providing were customary amenities which the employees had been enjoying, that there had been an illegal change, and that the complaint was not barred by limitation. Against that decision these appeals have been filed.

6. We are of the view that clearly there had been an illegal change. The term "Wages" has been defined in section 3(39) of the Bombay Industrial Relations Act as remuneration of all kinds capable of being expressed in terms of money and payable to an employee in respect of his employment or work done in such employment, and includes the value of any house accommodation, light, water, medical attendance or other amenity or service. It therefore cannot be doubted that the granting of these amenities or privileges constituted a part of the wages of the employees. It is true that the minimum wages had been raised from Rs. 17 to Rs. 28, and the assessor in his report had recommended that where

standard or minimum wages were paid all other concessions and privileges, such as rent free or cheap residential accommodation, free fuel and lighting etc., should be discontinued or their value assessed and deducted from wages. But the Assessor's report is not the award. The award was made on 21st April 1948 after taking into consideration the Assessor's report, and it is abundantly clear that the Court, although invited by the Millowners' Association to permit them to deduct the cost of these amenities from wages, declined to do so. It therefore follows that by that award the wages were fixed, but the amenities enjoyed by the employees were not in any way affected. It was an obligation on the part of the employers to pay the wages and to continue the amenities, and by their failure to continue the amenities they had committed a breach of their obligations towards the employees. If it was their intention to discontinue the amenities, they should have first given a notice of change under section 42 of the Bombay Industrial Relations Act.

7. It has been contended before us that the amenities which had been given could not be said to be customary amenities in that they were not proved to have existed from time immemorial or sufficiently long to justify their being regarded as customary concessions. We are unable to accede to this line of argument. In the first place item 7 of schedule 2 relates to withdrawal not only of customary concessions but also of any privilege or change in usage, and the amenities in question clearly fall within privilege or usage. Secondly it is obvious that the term "customary concession" does not mean a concession which has existed from time immemorial, but is intended in the context of industrial relations to convey the idea of an amenity or advantage which has been consistently enjoyed by the employees for a sufficient duration to justify the view that it has become part of his emoluments. To construe it otherwise would lead to an absurdity.

8. The question of limitation has been pressed before us. The date of the original award is 21st April 1948 and the withdrawal of the concessions was made soon thereafter. The decision upon the interpretation of the 1948 award was given on 18th January 1949, but the complaint about the illegal change was not filed till 8th June 1949. Section 79(4) of the Bombay Industrial Relations Act prescribes a three months' limitation for an application for a declaration that a change was illegal, to start from the making of the challenged change. After the hearing of the complaint before the Labour Court had concluded, but before it gave its decision on 28th February 1950 that sub-section was amended by the addition of a proviso which provided that a Labour Court may, for sufficient reasons, admit any application for a declaration that a change is illegal under the Act even after the expiry of three months from the date on which such change was made. It was contended before us by Mr. Patwari, that, as at the time the application was made the Labour Court had not the power to condone delay, it ought to have thrown it out as being barred by time. We think that there is force in this argument assuming that limitation had started soon after April 1948. This however, does not dispose of the question of limitation.

9. We have already pointed out that the amenities in question are to be regarded as "wages" according to its definition in the Industrial Relations Act and the 1948 award did not empower the employers to deduct their money value from the wages as fixed by that award. Accordingly the action of the employers complained of amounted to illegal change in the matter of "wages". The employees had the right to receive and the employers were under the obligation to pay and to provide the amenities month by month as long as the services of the employees had not been rightfully terminated. Accordingly the refusal of the employers to act according to that obligation month by month constituted a fresh breach every month. Translating it into the language of the Industrial Relations Act there would be an illegal change and in such cases its repetition occurred every month. In this view of the matter an application for a declaration that the change was illegal and for its withdrawal in respect of the amenities due but withheld by the employer within three months of the making of the application would be within time. To this extent we agree with the decision of the Full Bench of the Industrial Court in the case of the Government Labour Officer, Bombay, v. Shree Ram Mills Ltd. (1950, I.C.R. 1241 at 1247), but not with the further observations made therein implying that the position would be different in the matter of limitation if the denial on the part of the employer was of an unequivocal nature. We think that it is the nature of the right of the employee—recurring or non-recurring—and not the character or the force of

the denial on the part of the employer that determines in such cases the starting point of limitation.

10. It has been lastly urged that it is open to us to consider even now whether those amenities ought to be disallowed. It is not our function at this stage to decide that question. If the employers desire any change they must initiate proceedings in the usual way.

11. These appeals are therefore dismissed. No order as to costs.

R. C. MITTER,
President.

F. JEEJEEBHoy,
Member.

Appeal No. 39 of 1950

The A.D. Cotton Mills Ltd., Quilon. Appellants.
versus
The Quilon Textile Workers' Union, Respondents.
Quilon.

Appeal No. 46 of 1950

The Quilon Textile Workers' Union. Appellants.
Quilon.
versus
The A.D. Cotton Mills Ltd., Quilon. Respondents.

In the matter of appeals against the award of the Industrial Tribunal (Sri C. S. Lakshmana Pillai) Trivendrum, dated 16th August 1950 in Industrial Dispute No. 1 of 1124.

The 17th day of May 1951

Present :

Mr. K. P. Lakshmana Rao, President.

Mr. F. Jeejeebhoy, Member.

Appearances :

For the Appellants in Appeal 39/50 :

Shri T. K. Joseph, Director of the Mills.

For the Respondents in Appeal 39/50 :

Shri Sreekantan Nair, President of the Quilon Textile Workers' Union.

For the Appellants in Appeal 46/50 :

Shri Sreekantan Nair, President of the Quilon Textile Workers' Union.

For the Respondents in Appeal 46/50 :

Shri T. K. Joseph, Director of the Mills.

State.—Travancore-Cochin.

Industry.—Textile (Cotton).

DECISION

This is an appeal by the employers against the award of the Industrial Tribunal at Trivandrum, and there is a cross appeal filed on behalf of the employees. We shall deal with both the appeals in a single decision.

2. The first question relates to the basic wage and dearness allowance which has been given by the Adjudicator. Prior to the Reference the basic wage was -/8/- a day and it has now been increased to -/14/-; dearness allowance was -/13/6 per day which has now been increased to the equivalent of Rs. 1/4/- per day. The employers contend that these increases are excessive, whereas the employees demand a higher rate.

3. The A.D. Cotton Mills are situated in Quilon which is on the west coast. There are no other textile mills in the immediate vicinity with which any comparisons could be made, but the nearest one is probably the Sitaram Mill in Trichur, and we are told that by an award of September 1947 the lowest basic wage of the Sitaram Mill is -/12/3 per day and the dearness allowance works out at Rs. 30 a month. The minimum basic wage for the Textile Industry in Madras is a rupee a day, and the employees of this mill contend that their basic wage should not be any lower. The lowest pay for a Government servant in the area is Rs. 20 per month; and it has been brought to our notice that Harrisons and Crosfield Ltd., which is an engineering concern in the vicinity, gives a minimum total earning of Rs. 2 a day to its lowest paid worker. But it is a far call from Madras to Quilon, and wages in Madras are lower than the wages in Bombay. The learned Adjudicator on the meagre materials before him has fixed the minimum basic wage as -/14/- per day for a month of 26 working days, and we see no reason to differ. It is true that in their claim immediately prior to the adjudication the workmen claimed 50 per cent. rise of their existing basic wages, which would have meant a basic wage of -/12/- a day; but their explanation for their present claim of Re. 1

per day is that they have increased their demands in consequence of standardisation which has now fixed their work-load. That explanation may not be entirely satisfactory, for a workman is expected to do an honest 8 hours' work, and standardisation should not have affected him; it would however appear from the arguments advanced before us on behalf of the employee that in this concern the worker had not been putting forth his proper effort, for the claim to a basic wage higher than what was demanded in the original claim can only be sustained on the basis that the workman previously was doing less than what he should have done. We feel that that has unfortunately been the case, and even after standardisation the situation has not improved. The representative who appeared on behalf of the employee informed us at the hearing that there had been a lock-out at the mill. On further enquiry we ascertained that there had been four strikes in the mill since 9th May 1950, namely, from 9th May 1950 to 3rd July 1950, from 31st August 1950 to 5th November 1950, from 5th January 1951 to 31st January 1951 and from 22nd February 1951 up to now. Apparently there was a strike in April 1948 followed by some rioting, and the representative of the employees who appeared before us, according to the information which he volunteered, was convicted in March 1950, of alleged assault on the Police during that riot. Since then there has been no peace in the mill. One would have thought that after standardisation, and after the fixation of wages by a Tribunal, there would have been no further cause for trouble; and we were asked by the representative of the employees to believe that the closure of the mill from 22nd February 1951 was not a strike but a lock-out, and he based his contention on the following admitted facts. A dispute arose on the allegation that a few persons in a particular sector of the mill were being given two or three annas less than what they should have received per day; instead of having this trifling affair settled by the Labour Officer or by other peaceful methods open to them (and it was really quite a simple matter having regard to the fact that standardisation had been already completed and the basic wage fixed) the employees began strikes, section by section. When the section of oilers refused to work and there was danger of fire, the mill had to stop working. We express no opinion as to whether this constituted a strike or a lock-out, for it is not our function to do so in these proceedings. But it is a material point for consideration in the fixation of a higher level of fair wage whether the concern is in a position to pay any increases, and we are forced to the conclusion that the employees by their own act have diminished the capacity of the concern to pay a higher wage. We have allowed the employees' claim to consideration of a minimum above -/12/- per day, and we confirm the increase to -/14/- per day, but we are unable to raise it any higher. It is most regrettable that the employees should by their own acts endeavour to destroy the basis of improvement in their conditions of life.

4. As regards dearness allowance the learned Adjudicator takes the view that the most dependable method of calculating dearness allowance is to link the same with the cost of living index figures periodically prepared and published. But no such figures are prepared or published for Travancore-Cochin State, although they are available for Madras City and for certain other centres in Madras State, and the learned Adjudicator has based his finding of dearness allowance on a comparison of cost of living between Madras City and Quilon, for which there was really no direct evidence. He is of the opinion that the cost of living in Quilon is certainly less, but cannot be very much less than that of Madras City. As Madras is on the east coast and Quilon is on the west coast, and they are in two separate States, we do not think that it was correct for the learned Adjudicator to take the Madras City figures as even an approximate basis for fixing the dearness allowance of this mill. The learned Adjudicator has, however, given dearness allowance calculated at the rate of 2 1/3 annas per point for a month of 26 working days, the basis being the cost of living index figures for Madras City for the preceding month less 100 points.

5. We are of the view that where as in Travancore-Cochin no cost of living index figures are prepared, and where otherwise available, it is undesirable to link the dearness allowance with the rise or fall in the cost of living indices, and to do so would lead to needless friction from time to time; and we perceive considerable complications arising in the future from the application of the Madras indices to Quilon. Upon a consideration of the facts before us, and with the knowledge that we have of dearness allowance given in certain other places in Travancore-Cochin, we are of the view that dearness allowance at Re. 1 per day would be a fair figure to give to the workmen, and it is ordered accordingly.

6. The next point raised by both the parties is the question of bonus for the year ending June 1948. The net profits for the year ending June 1947 were Rs. 2,95,000 without deduction of income-tax, for 1948 it was Rs. 2,42,120, for 1949 Rs. 1,12,000 (with a portion of income-tax paid) and in 1950 there has been a loss of Rs. 23,000. In the year commencing 1st July 1950 there are bound to be substantial losses owing to a succession of strikes. The management paid $3\frac{1}{2}$ per cent. of wages equivalent to one month's basic wage as bonus for the year ending June 1948. Under his interim award the learned Adjudicator allowed an interim bonus at 5 per cent. of wages subject to adjustment by the final award; and the employees have contended that bonus should be 25 per cent. of the total earnings of the year 1948. The learned Adjudicator took the view that the company had been making profits from 1934 to 1949, that the balance sheet of the year ending 1948 showed a profit of Rs. 2,42,158, that the Labour Commissioner had stated that all the tile factories in Quilon paid a bonus of 7 per cent. in the year, and that Messrs. Harrisons and Crossfield Ltd., Quilon, had also paid a bonus of 7 per cent. for the year. The learned Adjudicator therefore fixed the bonus of this concern at 7 per cent. The employers contend that the amount of bonus given is excessive whereas the employees contend that it is too low. In our Full Bench decision in Appeal No. 1 of 1950 (The Millowners' Association, Bombay, v. The Rashtriya Mill Mazdoor Sangh, Bombay) we indicated the basis upon which an available surplus was to be ascertained out of which bonus would be payable to the employees. Admittedly this is an old mill and require rehabilitation and replacements. The balance sheet as on 30th June 1948 shows a depreciation fund of about six lakhs of rupees and a machinery renewal fund of Rs. 1,60,000 and a general reserve fund of Rs. 4,30,797. We were told that for 14 years between 1932 and 1946 no dividends were paid, nor has any dividend been paid for 1949, and the managing agents received nothing for 10 years. The claim of the employees to bonus of 25 per cent. of the net profits as shown, without deduction of income-tax or any of the other deductions which are permissible, is of course untenable. On the other hand the owners have paid bonus equivalent to $3\frac{1}{2}$ per cent. of wages, and that we are told amounts to Rs. 15,000. They have also paid an additional $1\frac{1}{2}$ per cent. as ordered by the interim award. We are of the view that upon the accounts as disclosed there is no ground for interference with the order of the learned Adjudicator on this question of bonus.

7. The employees have appealed against the decision of the learned Adjudicator that it is not just or proper to impose the burden on the owners of providing housing accommodation for the workmen. The employees claim that an order should be made for the establishment of a workers' colony to provide sufficient housing accommodation for 500 families of workers. It is true that in out of the way places where accommodation is difficult employers endeavour to provide some accommodation for their workmen; but this mill is situated in the middle of Quilon and the workmen live within the area, where small houses are available. According to the employees themselves this mill is old and requires rehabilitation, and we certainly do not think that the finances of the company permit of any organised scheme of residential accommodation for the employees. We confirm the decision of the learned Adjudicator on this point.

8. Issue 37 (C).—This issue relates to substitutes, and it is claimed on behalf of the employees that they should be given full dearness allowance for the days on which they attend at the mill but are unable to get work. The substitutes referred to in this issue are workmen engaged to do the work of those who are absent on a particular day. These substitutes have to appear at the mill, if they so desire, to ascertain whether there is any work for them in the place of absentees, and it may well happen that some of them may have to be without work on particular days. It was urged that by the time that they received intimation that there was no work for them or the day they had lost the opportunity of getting work at some other place. The learned Adjudicator below has given directions that the management should put up a notice giving the number of substitutes required for the day at least 10 minutes before 7 A.M. every day, so that each of the substitutes who cannot get work in the mill could conveniently seek work elsewhere. We think that the learned Adjudicator was right in the view that he took that no dearness allowance or compensation could be granted in such circumstances to substitutes who could not get work on a particular day.

9. The appeals are allowed to the extent stated above and are otherwise dismissed. No order as to costs.

K. P. LAKSHMANA RAO,
President.
F. JEEJEEBHROY,
Member.

Appeal No. 29 of 1950

Godrej Soaps Ltd., Bombay.

Appellants.

versus

The workmen employed under it through the Secretary, Chemical Mazdoor Sabha, Bombay.

Respondents.

In the matter of an appeal against the award of the Industrial Tribunal (Shri Salim M. Merchant) Bombay, in Reference (II) No. 10 of 1950, dated 31st May 1950.

The 18th day of May 1951

Present :

Mr. R. C. Mitter, President.

Mr. F. Jeejeebhoy, Member.

Appearances :

For the Appellants :

Shri B. Narayanaswamy, Advocate.

For the Respondents :

Shri S. S. Kavalekar, Advocate.

State.—Bombay.

Industry.—Miscellaneous (Soap).

DECISION

This is an appeal against the award of the Industrial Tribunal, Bombay, and is limited to the question of gratuity. The Industrial Tribunal below has granted gratuity in the following terms :—

- " (1) On the death of an employee while in the service of the Company or on his physical or mental disability to continue further in service—One month's salary or wages for each year of continuous service, subject to a maximum of fifteen months' salary or wages to be paid to his heirs or assigns or to the disabled employee, as the case may be.
- (2) On retirement or resignation of an employee—After 15 years of continuous service—Fifteen months' salary or wages.
- (3) On termination of service by the Company—
 - (a) On completion of ten years of continuous service and over—One month's salary or wages for each completed year of service, but not more than fifteen months' salary or wages.
 - (b) On completion of nine years of continuous service—Seven months' salary or wages.
 - (c) On completion of eight years of continuous service—Six months' salary or wages.
 - (d) On completion of seven years of continuous service—Five months' salary or wages.
 - (e) On completion of five years but less than seven years of continuous service—Four months' salary or wages.

In computing the period of service for gratuity the past services of the workmen shall be taken into account. Gratuity shall not be payable to any employee who is dismissed for gross misconduct. Salary or wages for the purpose of calculating gratuity shall be the average salary or wages, exclusive of allowances, during the 12 months next previous to death, disability, retirement, resignation or termination of service, as the case may be. The Company will be at liberty to grant gratuity in excess of the above in its discretion."

2. The Company has accepted the principle that gratuity ought to be granted in addition to the Provident Fund which it maintains for its employees, and therefore the only question for determination is the quantum of gratuity, and the conditions to be attached to its payment.

3. The Company has contended that gratuity is something payable for past loyal services and should not be converted into a scheme of compensation on termination of service. The Company therefore contends that no gratuity should be payable for any service of less than 10 years, that half a month's basic wage for each year

up to a maximum of 7½ months is sufficient having regard to present day conditions, and that items (b) to (e) of clause (3) of the scheme of gratuity given by the Industrial Tribunal below ought to be eliminated. It has been urged that there is a contributory provident fund of 8 1/3 percent. and that therefore the quantum of gratuity granted ought to be lowered. On behalf of the employees it is contended that the gratuity given if anything is on the small side, and that in many other awards completion of two years' service has been considered sufficient to enable the employee to earn gratuity on termination of his service by the company.

4. A material factor urged by the company in favour of its contentions is the present financial position of the company. It is said that the company has been making losses. We have scrutinised the balance sheets of the last three years, and but for the seal of confidence imposed at the request of the company we would have discussed the figures in detail. It is however not correct to say that in the years from 1947 to 1950 the company has not made profits, and we are in agreement with the Industrial Tribunal below that the present depressed condition of the market and the accumulation of stocks represent but a temporary phase in the company's affairs, and that taking into account the magnitude of its business, the large profits which it has made in the past, and the progress which the company has been making and will make by mechanisation and rationalisation, the outlook is by no means so dark as to justify a reduced scheme of gratuity. The company has already retrenched some 73 workmen, and no large scale retrenchment is in contemplation, and the number of workmen in the concern at present is said to be about 300. It is therefore evident that the number of persons to whom gratuity would be payable every year will be in the neighbourhood of only 10 or 15.

5. We have given careful consideration to the question whether we should reduce the gratuity payable below one month's salary for each year of continuous service as has been given; and it has been conceded before us that should we reduce that figure it will be open to us to reconsider the whole scheme. It is true that the employees enjoy a satisfactory retirement benefit in the shape of a contributory provident fund towards which both parties contribute 8 1/3 per cent.; and it is also true that half a month's salary for each completed year of service is more in keeping with the proposed Central legislation on retrenchment relief. On the other hand we are satisfied that this is a well established concern and one of the larger units of this industry, and is capable of providing a satisfactory gratuity on retirement or death. We also feel that those whose services are terminated by the company are entitled to special consideration, and their claim to gratuity should not be dependent on any particular length of service. Upon a consideration of all factors we are of the opinion that the scheme of gratuity as given by the learned Adjudicator below ought to be substituted by the following scheme:

- (1) On the death of an employee while in the service of the company or on his becoming physically or mentally incapable of further service—Three fourths month's salary or wages for each year of continuous service to be paid to the disabled employee or, if he has died, to his heirs or legal representatives or assigns.
- (2) On voluntary retirement or resignation of an employee after 15 years continuous service—Three fourths month's salary or wages for each year of continuous service.
- (3) On termination of service by the company—Three fourths month's salary or wages for each year of completed service.

Gratuity shall not be payable to any employee who is dismissed for misconduct. Salary or wages for the purpose of calculating the gratuity shall be the average salary or wages, exclusive of allowances, during the 12 months immediately preceding the death, disability, retirement, resignation or termination of service as the case may be. The company will of course be at liberty to grant gratuity in excess of the above terms.

6. The appeal is therefore allowed to the extent stated above. No order as to costs.

R. C. MITTER,
President.

F. JEEJEEBHOOY,
Member.

Appeal (Bom.) No. 14 of 1951

The Pratap Spg. Wvg. & Mfg. Co. Ltd.,
Amalner (E. Khandesh).

Appellant.

versus

The Rashtriya Mill Mazdoor Sangh,
Amalner (E. Khandesh).

Respondent.

Appeal (Bom.) No. 27 of 1951

Rashtriya Mill Mazdoor Sangh, Amalner.

Appellant.

versus

The Pratap Spg. Wvg. & Mfg. Co. Ltd.,
Amalner.

Respondent.

In the matter of appeals against the order of the Industrial Court (Shri K. C. Sen) in Appeal (IC) No. 40 of 1950, dated 18th December 1950.

The 5th day of June 1951

Present :

Mr. K. P. Lakshmana Rao, President.

Mr. F. Jeejeebhoy, Member.

Appearances :

For the Appellant in Apl. (Bom.) No. 14/51 and for the respondent in Apl. (Bom.) No. 27/51.

Shri B. Narayanaswamy, Advocate, with Shri S. G. Lothe, M.A., LL.B., Labour Officer, Pratap Mills Ltd., Amalner and Shri M. G. Bhalerao B.A., LL.B., Pleader, Amalner.

For the respondent in Apl. (Bom.) No. 14/51 and for the Appellant in Apl. (Bom.) No. 27/51.

Shri G. D. Ambekar and Shri H. R. Kolte.

State.—Bombay.

Industry.—Textile (Cotton).

DECISION

These are appeals by the Pratap Spg. Wvg. and Mfg. Co. Ltd., Amalner, and the Rashtriya Mill Mazdoor Sangh, Amalner, representing the clerical staff of the company against the appellate decision of the Industrial Court, Bombay, dated the 18th December 1950, in Appeal (IC) No. 40 of 1950, modifying the decision of the Wage Board in the Cotton Textile Industry in the Province of Bombay, dated the 23rd January 1950 in Reference No. 33 of 1949.

2. The points in dispute before us relate to (1) classification and fixation of grades (2) dearness allowance and (3) retrospective effect to be given to the new scales of wages.

3. On the first point, ordinarily it is for the management to assign duties and fix the grades and the Wage Board directed that in doing so the management should take care to see that each one of the clerks was assigned his proper grade having regard to the nature of his duties, degree of intelligence required for a particular job, his previous experience, etc. This was done by the management, but the procedure was modified by the Industrial Court. It has, however, become unnecessary to deal with this point as in the course of the hearing of the appeal, the parties have settled the matter and filed an agreement before us. The agreement is that if the Rashtriya Mill Mazdoor Sangh feels aggrieved by the classification made by the management, they can refer the dispute to the arbitration of Mr. R. G. Gokhale, Labour Officer of the Millowners' Association, Bombay, whose award shall be final and binding on both the parties. The decision of the Industrial Court will be modified accordingly.

4. On the second point, an application for modification of the dearness allowance of operatives was pending before the Industrial Court, and the clerical staff claimed before the Wage Board that a lump sum should be paid to them in addition to the dearness allowance that the Industrial Court may grant to the operatives. Accordingly the Wage Board directed the payment of additional sums of Rs. 3, Rs. 6, and Rs. 9 to the different categories of clerks. The supplementary appeal in respect of the lump sums was filed beyond the prescribed period of six weeks. There is no provision in the Bombay Industrial Relations Act for excusing the delay in filing the appeal. The decision of the Wage Board had thus become final. Even otherwise, as observed by the Industrial Court, the new scales introduced by the Wage Board are somewhat liberal, and there is no ground for interference with the decision of the Wage Board.

5. As regards the date from which effect should be given to the new scales of wages, the requisite notice of change under section 42 of the Bombay Industrial

Relations Act was given on 11th February 1949 and the Reference by the Government of Bombay is dated 12th August 1949. The claim in the notice was for higher wages from 1st January 1947. Before the Wage Board it was restricted to higher wages with effect from 1st January 1948 as under the award relating to the operatives they got an increase of wages from that date. The Wage Board gave its decision on 23rd January 1950. Ordinarily retrospective effect to new scales is given from the date of Reference. But the official year of the company commences from 1st July and the Wage Board gave effect to the new scales from 1st July 1949. The Industrial Court altered the date to 1st October 1948 though the company had suffered a loss of six lacs of rupees in 1949-1950.

6. The reasons given by the Industrial Court are (1) that the company had made profits of Rs. 10,58,440 in 1947-48 and Rs. 13,44,818 in 1948-49; (2) that the company had provided rupees 13 lacs for payment of the increase in wages and bonus in 1948-49 in view of the standardization of wages, but had actually spent only about 12 lacs towards those items, leaving a balance of one lac of rupees; (3) that the reserve for taxation built up by the company during 1941 to 1950 which had gone on increasing stood at rupees 97 lacs in June 1950, and it was unlikely that the whole of this amount would be utilised for purposes of paying taxes.

7. As already stated standardised wages are ordinarily given effect to from the date of reference. In this case however effect was given to them from 1st July 1949 as that was the commencement of the official year of the company. It was not suggested that the management had promised or created expectations of higher wages earlier than the usual date. The Wage Board consists of two representatives of labour, two representatives of employers and three independent persons including the Chairman of the Board. The decision of the Wage Board was unanimous and as observed by the Industrial Court the scales fixed by the Board were somewhat liberal. Further the decision provides for adjustment of wages by grant of one to four increments according to the length of service of the members of clerical staff. Under the circumstances, it was a fair decision and there was no justification for modifying the decision. The provision of 13 lacs of rupees was made on 30th June 1949 for payment of the increased wages of the operatives and bonus under an award of May 1949 and the surplus, if any, would naturally have been carried forward to the next year. The company had suffered a loss of about six lacs in 1949-50, and from the statement filed by the management it is seen that in addition to the reserve of 97 lacs built up for taxation a sum of 21 lacs has to be found for meeting the provisional demand in 1950-51. In the circumstances it would be unreasonable to give effect to the new scales from any date prior to 1st July 1949, and the decision of the Industrial Court cannot be sustained. It is accordingly set aside and the decision of the Wage Board is restored. There will be no order as to costs.

K. P. LAKSHMANA RAO,
President.

F. JEEJEEBHROY,
Member.

Appeal (Bom.) No. 21 of 1951.

The Madras Electric Tramways (1904)
Limited, Madras. Appellants.

versus

The Workers of the Madras Electric
Tramways (1904) Limited, Madras. Respondents.

In the matter of an appeal against the award of the
Second Industrial Tribunal (Sri T. D. Ramaiya)
Madras, in Industrial Dispute No. 8 of 1950 published
in the Fort St. George Gazette, dated January 2, 1951.

The 4th day of June 1951

Present :

Mr. K. P. Lakshmana Rao, President.
Mr. R. C. Mitter, Member.
Mr. F. Jeejeebhoy, Member.

Appearances :

For the Appellants :

Mr. H. J. E. Marr, Solicitor, with Mr. J. B. Beardsell,
Commercial Manager, Madras Electric Tram-
ways (1904) Limited.

For the Respondents :

Shri K. T. Sule, Advocate, with Shri M. K. Ranga-
nathan, Secretary, Madras Tramway Workers'
Association.

State.—Madras.

Industry.—Transport.

DECISION

This is an appeal against the award of the Second Industrial Tribunal, Madras, ordering the reinstatement of certain employees of the appellant concern. For the purposes of this appeal we are concerned with the reinstatement ordered in respect of two groups, namely, one group consisting of five employees Nos. 17, 33, 60, 61 and 62, and the other group consisting of 46 employees whose names have been given in the list.

2. As regards the first group of five persons, they were found by the Magistrate to have been guilty of taking part in an illegal strike on 27th June 1949 and they were fined between Rs. 10 and Rs. 15 each. The management had previously issued a charge sheet against these employees for violation of Standing Orders, and upon their conviction the management dismissed them on 29th July 1950 without any further enquiry but depending upon the conviction by the Magistrate. It is not necessary for us to consider the various aspects of the matter to which the learned Adjudicator below has referred. It is sufficient for the purposes of this appeal to state that during the pendency of the criminal proceedings before the Magistrate, culminating in the imposition of fines, four of these five employees had continued to work, for a period of over a year, to the satisfaction of the management; and the fifth one also was allowed to work and did work without fault from 3rd September 1949 to the date of his dismissal on 29th July 1950. We agree with the learned Adjudicator below that the management had been in error, but without malafides, in dismissing these employees, and that this was a fit case for interference by the Tribunal with the punishment. As far as we can find, these five employees had not been guilty of any misdemeanour during the course of the one day strike; and as they seemed to have atoned with a sufficiently long period of good service we do not think that discipline and good management would have been endangered if they had been given a punishment less than dismissal for their participation in the illegal strike. They were fined by the Magistrate, and have lost some back pay, against which no appeal has been filed, and we see no reason to interfere with the decision of the Industrial Tribunal below that they should be reinstated.

3. The second group of 46 employees had been arrested by the police on 22nd February 1950 in connection with their activities on that and the previous day.

4. It was the case of the employees that on the 17th February 1950 a deputation of the employees approached the management to discuss the dismissal of 13 workers, and for the grant of bonus for the year 1949; that the deputationists were asked to come again on the 20th February 1950; that when they went on that day to see the Agent they were told that he was not prepared to hear them and asked them to leave the room; the deputationists resented this and refused to leave the premises; that for the following two days the employees came there, presumably in batches, and were squatting peacefully in the premises with a view to persuading the Agent to hear them; about 262 workers were thus involved; that on 22nd February 1950 the management without any reason whatsoever suspended these 262 workers; and on that day the Deputy Commissioner of Police arranged an interview with the management and during the course of that interview the Agent refused to agree to the payment of bonus or to the reinstatement of the dismissed workers and he also refused to withdraw the suspension orders; that on the 22nd evening when the workers were still on the premises the police at the investigation of the management arrested about 51 who were peacefully squatting there.

5. On the next day, that is 23rd February 1950, the arrested workers were produced in Court and the Magistrate convicted and sentenced them under the City Police Act to one month's imprisonment. But on revision the High Court of Madras on 28th April 1950, set aside the conviction on the ground that no reasonable opportunity had been given to the accused to defend themselves and that in the circumstances a retrial of the case was not called for. Accordingly the High Court acquitted them. In the interval the management had enquired into the charges which had already been framed and had dismissed them.

6. The learned Adjudicator below on the evidence has found that the deputation of the employees met the Agent on 17th February, and the discussion was postponed either to the 18th or 20th February, but that it was clear that the deputation had intended to meet the Agent on the morning of the 20th February which meeting did not take place. According to the evidence of the Agent he had asked the members of the first deputation to come to him on the morning of the 18th to discuss the other two points which they had raised viz., reinstatement of the 13 dismissed workers and the cancellation of fines given to the motormen. The employees did not turn up on the following day but came in the afternoon of the 20th without any previous appointment. A large number of employees gathered in the corridors adjacent to the Agent's office room and insisted on seeing the Agent. They were very rowdy and the Agent agreed to meet the deputation which had come on the 17th provided that the employees who had flooded the premises went outside. It would appear that the employees were insisting that Shri Ranganathan and R. Subramanian should be amongst the deputationists, to which the Agent was not willing on the ground that they were office bearers of an Association which had been banned by the Government and the recognition of which had been withdrawn by the company with the permission of Government in 1949. As it was closing time, the Agent asked the employees to leave the premises and also warned them that if they persisted in staying he would have to call the police. Thereupon the employees went to the open space of the office premises and spent the night there. On the next day, that is the 21st February, the employees continued to squat in the corridors within the office premises, and their numbers were increased by the addition of those who had slept overnight in the open space. The learned Adjudicator is of the view that though the employees denied any disturbance and annoyance there can be little doubt that it did occur. On the next day, the 22nd February, the conduct of the employees was equally bad. Their numbers had further increased and the disturbance and annoyance was greater. That morning the management issued a memorandum to all workers in form Ex.M-1, which reads as follows:—

"You are required to show cause in writing why you should not be dismissed for taking part in an illegal strike on Tuesday, 21st February 1950. Until the management receive a satisfactory statement from you, you will not be allowed to join duty".

The same morning the Deputy Commissioner of Police remonstrated with the workers and persuaded the management to receive a deputation, and on this occasion the Agent did not impose any restriction upon the composition of the deputationists. At that meeting the Agent repeated to them what he had already told them on the 17th February, that he could not accede to the claims for bonus, or for reinstatement of certain dismissed employees, or for the cancellation of certain fines. The workers then complained to the Agent that they had been suspended from service and were not being allowed to work; this, of course, had reference to the terms of Ex.M-1. Apparently the Agent then said that whoever supplied a satisfactory explanation would be allowed to work, but that did not seem to satisfy the employees; and after the meeting on the morning of the 22nd a larger number gathered inside the office premises, refused to move out and indulged in disturbances. At 4 p.m. on the 22nd the Agent came to the spot and gave a memorandum in terms of Ex.M.12 to the Secretary Shri Ranganathan. That memorandum is in following terms:

"As you have entered on an Illegal Strike and have disobeyed the order given by the Agent that you should not remain in the Company's premises, you are suspended from the services of the Company from 12 noon on 22nd February 1950 until further orders.

"As you are no longer in service you have no right to remain in the company's premises."

This memorandum has at its end the names of certain known employees, and states that the names of all the illegal strikers could not be ascertained as some of them had covered their faces to hide their identity.

7. Shortly afterwards another memorandum Ex. M.13 was also handed over concerning a further set of employees who refused to move out of the office. It was in the same form as Ex. M.1 but for a slight alteration:

"As you are no longer on duty you have no right to remain in the company's premises."

It is obvious that the words "As you are no longer in service" appearing in Ex. M.12 meant at that time "As you are no longer doing service" or in other words "As you are no longer on duty".

8. The issue of these memoranda had no effect on the employees who continued to stay where they were, some going out from time to time while others came in to take their places. At about 6 P.M. on the 22nd Police Officers came and arrested 51 of the employees who were squatting on the premises. They were produced before the Presidency Magistrate the next day and convicted under the City Police Act. The High Court, however, on revision set aside the conviction in the following terms:

"The petitioners in this case were arrested on 22nd February 1950 at about 6 P.M. and they were kept in custody in Several Police Stations and brought before the Court on 23rd February 1950 at about 11 A.M. for trial. The petitioners complained that when they asked for a short adjournment till about 2-30 P.M. in order to enable them to secure the service of an Advocate it was refused. In short, no reasonable opportunity was given to them to defend themselves. The petitioners therefore had no fair trial. In the circumstances the convictions cannot be sustained. It is set aside. In my opinion the circumstances of the case do not warrant a retrial. The petitioners are therefore acquitted."

9. The order of the High Court is dated 28th April 1950. Before that the management had fixed dates for the hearing of the charges against the employees and the Agent on 10th April 1950 passed orders dismissing the employees on the ground that they had been guilty of a breach of the Company's Standing Order No. 24(3). The employees, however, started fresh correspondence questioning the legality of the dismissal and alleging that the charges framed against them were too vague. They also asked for details of specific charges and for an expeditious enquiry. The management stated that they were willing to hold a fresh enquiry provided an employee asked for it and provided that a Government Labour Officer was also present at the proceedings. Fresh charges were thereafter framed, and fresh enquiries held, and the Agent came to the same conclusion as before to the effect that the employees ought to be dismissed. That was on 22nd May 1950.

10. The learned Adjudicator has summed up his findings of facts as follows:—

"When all is said and done, however, there can be no doubt at all that the workers in question indulged in an altogether illegal strike. The Transport Industry was notified as a public utility service and under the terms of the Industrial Disputes Act the workers were not entitled to strike without a strict compliance of the formalities prescribed under the Act. They admittedly did not do so. The Agent admitted that there was no strike on the 20th, though the charges against workers included the 20th February as well. That of course is not a mitigating circumstance because the workers did strike on the 21st and the 22nd February. They did not also leave the premises though they were told more than once that they had no business to be there after office hours and after a direction was given that they had been suspended and should, therefore, leave the premises. Nobody can excuse or justify the shouting of slogans, drawing of a caricature of the Agent and defacing the walls by writing up slogans and demands and the annoyance and the disturbance caused. They had no excuse whatever to behave in such a manner, though of course it is difficult to expect them all to be cool and collected when such a large number of men surcharged with emotion had assembled."

11. Having come to this finding on facts, the learned Adjudicator proceeds to say that there were no assaults or acts of intimidation or picketing or interference with non-strikers and that there was no damage or injury to person or property of the company, and therefore the learned Adjudicator seems to think that the punishment of dismissal given by the management was too severe. He has reinstated the 46 workers but without any back pay or allowance.

12. We are satisfied upon a careful consideration of the facts that the employees in question indulged in an illegal strike and then proceeded to occupy the company's office premises and refused to leave the place when required to do so. They were by no means peaceful, and the very fact that they defiantly remained in occupation in spite of warning was an indication of their resolve to

be troublesome. They had been shouting slogans like "Down with the Agent" "Down with the Labour Officer" "Down with the Traffic Manager", and had been otherwise objectionable, with the object of causing disturbance and annoyance and of lowering the management in the estimation of the workmen on duty. We are satisfied that the conduct of the employees was that of defiance and affront to the management, deliberately subversive of discipline and that without any justification or provocation. The normal punishment for such acts is dismissal, for discipline and good management cannot be expected to survive in such surroundings. It is therefore necessary to consider whether there are any circumstances which would have justified a reversal of the penalty of dismissal which the management had given. In other words we have to consider whether the Tribunal below was justified in interfering with the discretion which the management undoubtedly had to impose the punishment of dismissal. On the face of it the punishment is in keeping with the nature of the offence, and the Tribunal below has not found that there was any violation of the principles of natural justice in or about the enquiry or that the management had been guilty of victimisation, or unfair labour practice or was moved by any ulterior motive in coming to its decision.

13. Before we consider the principles which should govern a Tribunal's decision to interfere in such matters, we shall discuss the points which have been urged before us by Mr. Sule in support of the learned Adjudicator's decision cancelling the dismissals and ordering reinstatement.

14. Mr. Sule's first contention is that an appeal does not lie merely for interference with the discretion of the Tribunal below. Under section 7 of the Industrial Disputes (Appellate Tribunal) Act an appeal will lie whenever a substantial question of law is involved and to our mind there is here a substantial question of law affecting the industries in general, namely, the grounds on which a Tribunal would be justified in interfering with the decision of the management in or about the internal administration of the concern. As to whether a substantial question of law arises or not must necessarily depend upon the facts and circumstances, and we have no doubt that in the present case such a substantial question of law does arise.

15. Mr. Sule's second contention is that the charges had been framed under the wrong Standing Orders; he urges that whereas the Standing Order under which the charges had been framed enumerates offences for which dismissal is the punishment, the alleged offences more appropriately fall within another category for which the punishment was dismissal or something less. We do not think that there is substance in this contention. If offences constitute a violation of two or more Standing Orders it is open to the management to proceed in respect of the violation of any one or more of them; but in this case it makes no difference, for the punishment of dismissal could have been given under either of the two Standing Orders if the charge had been proved.

16. Mr. Sule has next alleged unfair labour practice against the management. It is his case that the refusal of the management to accept a deputation of the employees' own choosing on the 20th was the cause of the strike on the 21st. We must, however, consider this in the light of what occurred on the 17th. On that day a deputation of the employees was received, and after consideration of one of the grievances, the discussion was postponed to the 18th or 20th morning. The deputation did not meet the Agent on either morning, but a large number of workers gathered near the Agent's room on the afternoon of 20th without previous appointment. They could not have a discussion, as the Agent wanted the same five representatives who had met him on the 17th to continue the discussion, but the employees insisted on the inclusion of two others who were office bearers of a banned Association to which the Agent was not agreeable. Assuming this to be correct, the Agent cannot be said to be guilty of an unfair labour practice merely because he declined to discuss the matter further with such a deputation. Naturally he expected the discussions to continue with the same five representatives who conducted the discussion on the 17th. He may or may not have been right in refusing to discuss disputes with office bearers of a banned Association, but he certainly was not guilty of an unfair labour practice in the view which he legitimately took. It does not, however, appear that the facts as stated by Mr. Sule are correct, if we accept the version of the employees in their statement of claim. In that statement, which was filed by Shri M. K. Ranganathan on behalf of the employees, there is no mention whatever that on the 20th the Agent declined to receive the deputation because two office

bearers of a banned Association (including himself) were to form part of the deputation. In that statement Shri Ranganathan states as follows:—

"On that day (20th February 1950) the deputationists were shocked to hear from the Agent the remark that he was not prepared to hear anything which the deputationists wanted to represent to him. The agent representing the management also informed the workers who were waiting on him, to leave the room immediately, as otherwise he threatened to call for police help to compel the deputationists to go out of his room. The deputationists resented this threat and refused to leave the premises. The following two days the workers came there and were squatting peacefully in the premises of the company with a view to see the Agent and persuade him to hear what they were about to say. The number of workers who took part in this deputation which was very peaceful would be 262".

17. Furthermore the only allegation against the *bona fides* of the management is contained in paragraph 10 of the statement of claim. It is stated thus:—

"A set of five workers were also charged under the Industrial Disputes Act and they were also fined. As soon as their conviction ended in fines, the management vindictively dismissed all these five workers too who were working in the company and who were not in any way connected with any of the 51 workers mentioned above. The only grudge against them for the management is that they were convicted to pay some fines under the Industrial Disputes Act".

18. We do not see anything vindictive in the action of a management in accepting the conviction of an employee by a criminal court as sufficient proof of guilt. It is therefore clear that so far as the statement of claim is concerned there is no suggestion of any victimisation or unfair labour practice or of *mala fides* on the part of the management in respect of these 46 employees.

19. It is argued that the second indication of unfair labour practice is that the company imposed a lock-out in respect of the 262 workmen to whom they had given charge sheets. We are unable to perceive any lock-out in the events which had taken place. The persons who were guilty of flouting the management by taking unlawful possession of the premises for two days had been suspended pending investigation, for that is the plain meaning of the memoranda Ex. M-1 and Ex. M-12. If an employee gave a satisfactory explanation of his conduct the suspension pending enquiry would cease. If he was unable to do so, then the management would have to do its duty in the usual course. There was never any question of a lock out.

20. The third count of alleged unfair labour practice is based on the allegation that the punishment had been discriminatory. Mr. Sule contends that over 200 workers were squatting there, and he complains that only 51 were arrested whereas the others escaped. The fact seems to be that when the police officers arrived and were about to arrest the workers, the major portion of them thought better of it and walked away. That the 51 arrested employees were actually on the spot cannot be denied and is not denied by Mr. Sule.

21. It seems clear to us from the evidence and the admitted facts that the employees concerned in this illegal strike refused to go back to work, not because they were prevented from doing so, but because they insisted as a condition precedent that the suspension orders be cancelled, in other words that no charges should be framed against them; and we cannot blame the management if they refused to comply.

22. It has been urged before us on behalf of the employees that we ought not to interfere with the discretion of the Tribunal below. That does not correctly state the position. What we have to consider is whether the interference by the Tribunal below with the decision of the management was justified. Ordinarily, the management, acting *bona fide* and with knowledge and experience of the problems which confront it in the daily work of the concern, ought to be considered to be well qualified to judge what the appropriate punishment should be. But the rule that the punishment given by the management shall stand, is subject to this qualification: that the punishment must not be unduly excessive for the particular offence; and here again the Tribunal should not substitute its own judgment for the judgment of the management unless it is apparent that the requirements of discipline and good conduct would not be prejudiced if a lesser punishment were awarded. Each case must, of course, be decided on its own merits, and

no two cases are likely to be completely alike; but it is essential that these matters should not be viewed altogether subjectively from the point of view of the employee or of the employer, but also objectively in interests of discipline and good management. Applying these tests to the case before us we are satisfied that the Tribunal below was not justified in interfering with the decision of the management to dismiss these employees.

23. In the result the appeal is allowed in respect of the 46 employees who were ordered to be reinstated. We hold that the Tribunal was in error in making the order of reinstatement and the order is therefore set aside. The rest of the appeal is dismissed. No order as to costs.

K. P. LAKSHMANA RAO,

President.

R. C. MITTER,

Member.

F. JEEJEEBHoy,

Member.

Appeal (Bom) No. 43 of 1951

Larson & Toubro Ltd., Bombay.

Appellants.

versus

The workmen employed under Larson & Toubro Ltd.

Respondents.

Appeal (Bom.) No. 50 of 1951

Larson & Toubro Ltd., and Allied Companies' Staff Union, Bombay.

Appellants.

versus

Larson & Toubro Ltd., Bombay.

Respondents.

In the matter of appeals against the award of the Industrial Tribunal (Shri I. G. Thakore) Bombay, in Ref. (IT) No. 27 of 1950, dated 9th January 1951.

The 22nd day of June 1951.

Present :

Mr. K. P. Lakshmana Rao, President.

Mr. F. Jeejeebhoy, Member.

Appearances :

For the Appellants in Apl. (Bom) 43 of 1951 and for the Respondents in Apl. (Bom) No. 50 of 1951.

Mr. H. M. Seervai with Mr. B. Narayanaswamy, instructed by Messrs. Manilal Kher Ambalal & Co., Solicitors.

For the Respondents in Apl. (Bom) 43 of 1951 and for the Appellants in Apl. (Bom) 50 of 1951.—

Shri A. S. R. Chari with Shri T. Godiwala, Advocates.

State.—Bombay.

Industry.—Engineering.

DECISION

The employers as well as the employees have appealed against the award of the Industrial Tribunal, Bombay, in the dispute between Larson & Toubro Ltd., Bombay, and their workmen. The appeals involve questions of wage scales, gratuity, increments and other matters to which we shall later refer in this decision.

2. Some time in 1938 a partnership firm was started in Bombay which was to be the precursor of the present concern. That partnership does not seem to have made much headway, and in February 1946 the present concern Larson & Toubro Ltd., was registered in Bombay as a private limited company. Its business has prospered and its activities have expanded. The company deals largely in agricultural machinery, besides other activities like the sale of heavy earth moving equipment, well drilling equipment, compressors and pumps, dairy installation, refrigeration plants, power gas units and other business of a similar character. As the company was a private limited company it suffered from certain disabilities, and was unable to create or maintain a reserve fund. In 1949 the company was converted into a public company limited by shares.

3. There is no doubt that the company carries on business in a large way, and its direct sales during the year 1949-50 totalled over a crore of rupees, being some 13 lakhs higher than in the previous year. This increase in turnover was to some extent due to the general increase in prices, but it was also due to an expansion of the company's business. It is however clear that the company is a young concern which has yet to stabilise itself, and it is difficult to judge its normal expectations of the future. The concern is largely an importing organisation which

should continue to flourish so long as agricultural machinery is needed and so long as the free flow of imports is uninterrupted by war or any other unforeseen restriction. The profits of the company have been moderate, considering its turnover, and while the company has not been able to create any appreciable reserve fund, it has at the same time been advised to eliminate from the balance sheet the goodwill shown at something like seven lakhs of rupees; this will have to be effected either by writing off the item in the profit and loss account within a few years or earmarking a portion of the reserves towards it from year to year; in pursuance of competent advice a portion of the profits has been diverted towards reduction of this item of goodwill, as it is said that the goodwill would be an asset of no value in an emergency. Such is the background of the activities of this concern. The position of the company may be summed up as sound, progressive, and having a fair expectation of future prospects, but young at present and not comparable to the older and better established concerns like Volkart Bros., and Greaves Cotton and Crompton Parkinson Ltd.

4. *Basic Wage.*—The company offered to adopt the four grades given to the clerical staff by the 1949 award in the British Insulated Callender's Cables Ltd., Bombay (1949 I.C.R. Bom. Page 909), but the company also submitted that as it had been paying a higher rate of dearness allowance, its system of dearness allowance should be revised and brought into line with the system prevailing in the British Insulated Callender's Cables Ltd. The learned Adjudicator below, while following the British Insulated Callender's Cables Award as regards Grade I clerks, increased the maximum of all the other three grades, on the ground that the scales which he was giving were more in conformity with the scales given to clerical staff "in several other concerns" and after consideration of the capacity of the concern "and other factors". The award however does not contain any indication as to the "several other concerns" or "other factors". The learned Adjudicator gave to the daily rated workmen the following scales :

Unskilled—Rs. 1/4/- As. 1—Rs. 2/-.

Semi-skilled—Rs. 1/10/- As. 1½—Rs. 2/9/-.

Skilled—Rs. 2/8/- As. 2½—Rs. 3/2/- As. 3—Rs. 4/1/- E.B.—As. 4—Rs. 5/1/-.

5. *Dearness Allowance.*—As regards the dearness allowance the learned Adjudicator came to the conclusion that since the existing scale of dearness allowance was higher in the initial stages and considerably higher in the later stages than in several other awards, he did not consider that he would be justified, looking to the nature of the company's work and its financial capacity, to increase the dearness allowance. Reduction of dearness allowance was refused.

6. The principles on which basic wage should be fixed have been stated by this Tribunal in its decision in Appeal No. 145 of 1950 (The Army and Navy Stores, Ltd., Bombay v. their workmen). The basic wage ought to be fixed having regard *inter alia* to the wages paid by comparable concerns in the locality; and while no doubt the employees are entitled to better their conditions by having a higher fair wage fixed, such increases must necessarily depend on the circumstances applicable to the unit, including its capacity to pay and its standing and reputation. In the case before us no circumstances exist which would justify the award of a higher basic wage to the employees of this concern than prevails in comparable concerns in the region. The company is young, its business is no doubt on a large scale, but its profits are none too high and it has not built up a reserve. In our view it is idle to compare a concern of this kind with Volkart Bros. or perhaps even with Greaves Cotton and Crompton Parkinson Ltd. We do not think that the British Insulated Callender's Cables, Ltd., is a comparable concern, as it deals in wires and cables and their installation, and cannot be said to be an engineering concern of the class to which Larson & Toubro Ltd., belongs. Volkart Bros. is a very well established concern which has just celebrated its centenary of business in India during which time it has built up a sound and profitable organisation. Greaves Cotton and Crompton Parkinson Ltd., is also a very well established concern having roots in this country for over half a century; and we feel that it would be more appropriate in this case to apply the basic scales of a concern like Greaves Cotton and Crompton Parkinson Ltd., rather than create a new scale by taking the British Insulated Callender's Cables scale and adding something to it. In the Greaves Cotton and Crompton Parkinson award reported in the Industrial Court Reporter of February 1951, the learned Adjudicator has given two grades for clerks, viz.—

Junior Grade.—Rs. 75—5—100—5—140—10—200.

Senior Grade.—Rs. 115—5—140—10—210—12½—285.

The company before us has offered four grades as follows :—

- Grade IV.—Rs. 75—5—95—E.B.—5—140.
 Grade III.—Rs. 102½—7½—140—E.B.—10—200.
 Grade II.—Rs. 140—10—190—E.B.—10—250.
 Grade I.—Rs. 200—12½—275—15—350.

It will therefore be observed that the grades which the company has offered are in fact higher as regards the ultimate maximum than the grades awarded to the Grieves Cotton & Co. employees; and the four grades taken together are an improvement on the Grieves Cotton scale. We therefore feel that the scales which the company has offered for clerks are just and should have been applied, and that there was no justification for going beyond it. We agree that an endeavour must be made to improve living conditions, and to award a higher wage where the circumstances permit. But the learned Adjudicator below has selected the wrong case for the application of this principle. As we have said before this company is not yet stabilised and needs to be nurtured before it can be said to be capable of bearing a heavier burden of wage structure. We therefore substitute for clerks the scale which the company had offered in the place of the grades and scales given by the Adjudicator below.

7. We direct that as to all categories other than clerks to which the learned Adjudicator has awarded one or other of the clerical scales, the scales which we have now given for clerks shall be the applicable scales.

8. For the skilled categories the Adjudicator in Grieves Cotton and Crompton Parkinson Ltd., has awarded the following :—

- Skilled Grade I.—Rs. 150—6—210—8—250.
 Skilled Grade II.—Rs. 100—5—150.
 Skilled Grade III.—Rs. 60—4—100.

whereas the learned Adjudicator below has given them the following :—

- Rs. 2/8/- As. 2½—Rs. 3/2/- As. 3—Rs. 4/1/- E.B. As. 4—Rs. 5/1/-.

and has stated that he does not consider it necessary to fix two scales for the skilled workers. We agree with the scale which he has given and we presume that skilled Grade I is the highly skilled grade. The learned Adjudicator has also stated that the existing carpenters and fitters appear to be all skilled and should be put in the scale of skilled categories, but the company has objected to this. The learned Adjudicator himself has stated that for carpenters and fitters who are semi-skilled a lower scale should be given namely Rs. 2—As. 2—Rs. 2/8/-. It does not appear as if there was evidence to support the view that all carpenters in the company should necessarily be in the higher scale given for carpenters; it would depend upon the individual capacity of the carpenter. We therefore direct that the company shall fix the carpenters and fitters in the two scales having regard to their past work and their capacity. If all existing carpenters and fitters are skilled personnel they must be so designated.

9. As regards semi-skilled workmen the learned Adjudicator in Grieves Cotton and Crompton Parkinson Ltd., has given the scale of Rs. 40—2—50 and Rs. 50—2—60, whereas the Adjudicator below has given to the semi-skilled worker a wage scale of Rs. 1/10/- As. 1½—Rs. 2/9/- which is higher by comparison with Grieves Cotton, and we do not think that any advance over the maximum of the Grieves Cotton wage is either indicated or desirable in the present state of the company's finances. We propose to retain the minimum of Rs. 1/10/- but the maximum will be reduced to Rs. 2/6/-. The rate will therefore be Rs. 1/10/- As. 1½—Rs. 2/6/-.

10. As regards unskilled workmen the award of Grieves Cotton gives them a wage scale of Rs. 30—1½—42 whereas the Adjudicator below has given Rs. 1/4/- As. 1—Rs. 2/- per day and the company before us had offered Rs. 1-2-6—½ a.—Rs. 1/5/- As. 1—Rs. 1/8/-. Here again we retain the minimum of the scale given by the Adjudicator below but the maximum needs adjustment; we fix the following scale for them :—

- Rs. 1/4/- As. 1—Rs. 1/12/-.

11. The employers have contended that one of the factors to be taken into account in the fixation of a wage structure is the total emoluments which an employee would be earning in the concern, and the company before us maintains that its dearness allowance is higher than what is paid in similar concerns. They accordingly ask that if the basic wage is increased the dearness allowance should be reduced so that the total emoluments of the employees may not be out of line with the total emoluments of the employees in similar concerns like British Insulated Callender's Cables Ltd., and Grieves Cotton and

Crompton Parkinson Ltd. The dearness allowance which the company has been giving to the daily rated workmen is generous and ought not to be touched. The case of the clerical staff however stands on a different footing. The Union has filed a comparative chart of the dearness allowance and total emoluments payable by Grieves Cotton and Crompton Parkinson Ltd., Bombay, The British Insulated Callender's Cables Ltd., Bombay and by Larson & Toubro Ltd., prepared on the basis of pay slabs starting from Rs. 75/- and ending with Rs. 300/-. It appears that in the earlier pay slabs from Rs. 75/- up to Rs. 150/- the overall advantage of total emoluments in favour of the employees of this concern is small, but thereafter the increases are rapid and not justified. We would reduce the dearness allowance in the slabs from Rs. 150/- to Rs. 300/- by 3%

12. *Junior clerks.*—It is the contention of the company that the learned Adjudicator was in error in fixing the scale of Rs. 60—3—75—5—105 for junior clerks and that he ought to have stopped at Rs. 75/-, the present salary of the two individuals promoted from the ranks of sepoys and now designated as junior clerks being Rs. 45/- and Rs. 75/- respectively. We do not think we should interfere in this matter. When persons from the rank of sepoy are promoted to the rank of junior clerk, the chances are that they will finish their career in the same grade and will not have any chance of promotion. We should therefore provide them with a fairly long scale, and we do not think that the learned Adjudicator was in error in giving the scale of Rs. 60—3—75—5—105.

13. *Typists.*—The company has no objection to the typists being given the same scales as Grade III and Grade IV clerks provided that the scales of the clerks are reduced as claimed by them. We direct that the typists will receive the same scale of pay as is given by us to Grade III and Grade IV clerks.

14. *Telephone Operators and Time-Keeper.*—Here again the company contends that they have no objection to these two categories being given the same scales as certain clerks, but they contend that the clerks' scales as given by the Adjudicator are too high. We direct that the telephone operators should receive the same scales as Grade III clerks, and on promotion the scale of Grade II clerks, and that the time-keeper should receive the scale of Grade III clerks.

15. *Junior Stenographers.*—It is the complaint of the company that the learned Adjudicator ought not to have directed that the Junior Stenographer's grade should only be confined to the company's staff and that no outsider should be recruited to the Junior Stenographer's grade. We think there is substance in this contention for the junior stenographers have been maintained and are being maintained as a category for now and inexperienced stenographers who may join the company, as well as for clerks or typists who learn shorthand after joining the company and desire to get practice in shorthand as part of their duties. It is true that two grades have been prescribed for stenographers and that the company may not accept in either of these two grades a stenographer who does not fulfil their requirements. There are however stenographers who may fall short of the requirements of the company for Grade A or Grade B Stenographers and they should not be debarred from employment if they can be suitably entertained as junior stenographers. Mr. Chari on behalf of the employees has strongly urged that no outsiders should be recruited, and he states that he does not want the category of junior stenographers, and is opposed to the category of junior stenographers if it means any recruitment from outside sources. We are unable to accept the view that the category of junior stenographers should be confined only to clerks who have learned shorthand; that has never been the practice of the company and there is no reason why it should be so, and the direction of the Adjudicator that no outsider should be recruited to the post of junior stenographer's grade is vacated.

16. *Comptists, Store-Keepers and Assistant Store-Keepers.*—As regards comptists, store-keepers and assistant store-keepers, they will be given the comparable scales of clerks, but as fixed by us. Mr. Chari on behalf of the employees has urged that as the store-keeper has small chances of promotion his maximum should be fixed at Rs. 320/- but we are unable to accede to his request.

17. *Service Mechanics and Assistant Mechanics.*—As regards these two categories, the learned Adjudicator has given to the Assistant Mechanics the Grade III of the skilled workmen on the basis of the Grieves Cotton and Crompton Parkinson award and has fixed it at Rs. 60—4—100. It is the complaint of the company that while fixing this scale the learned Adjudicator has not taken into consideration the dearness allowance which the company has been paying. We have however dealt with this subject and we see no reason to interfere with the basic scale

of Rs. 60—4—100 for Assistant Mechanics or with the scale which has been given for service mechanics.

18. *Technical Assistants.*—The Union has reiterated their demand for a scale for the Technical Assistants. As submitted by the company the expression technical assistant is a generic term covering a wide range of talent and qualifications in various departments with suitably differing salaries and it is not possible to cover the entire range under an omnibus grade as proposed by the Union. Exhibit 6(c) filed on behalf of the company gives the names of the persons concerned in the various departments with their starting salary, qualifications, etc., and as observed by the Tribunal below it is impossible to fix a uniform grade for persons who are doing different types of work and whose qualifications are also different. It might have been possible to fix a grade for each of them if evidence as to the nature of the job and other qualifications necessary was forthcoming, and we agree with the Tribunal below that in the absence of evidence as to the evaluation of their qualifications, the nature of their work and the extent of their experience to the company it is not possible to fix any grades for them. It was for the Union to have placed the necessary materials before the Tribunal and there is no ground for interference with the award on this point.

19. *Salesmen.*—The company has objected that the salesmen do not fall within the purview of the reference, and they contend that the salesman is not an employee within the meaning of the Act. The point is purely academical as the learned Adjudicator has not fixed any grades or scales for the salesmen.

20. *Sepoys.*—It is next urged that the learned Adjudicator was not justified in raising the scales of the sepoy to Rs. 35—1—45—2—65. The employees on the other hand claim that the scale should be higher. The company had offered the scale of Rs. 30—1—36—E.B.—2—48—3—60 as given by the award in the British Insulated Callender's Cables Ltd. We see no reason to interfere as the learned Adjudicator has given the same scale as has been given to the employees of the Grieves Cotton and Crompton Parkinson, Ltd. It is also urged that the learned Adjudicator was in error in directing that the cycle sepoy and those required to do duplicating work should be given an additional allowance of Rs. 5/- a month. We do not propose to interfere in this matter nor are we disposed to alter the scales which have been given to drivers and tractor operators.

21. *Gratuity.*—It has been urged before us that there ought to be only one retirement benefit, be it pension, provident fund or gratuity. It is the complaint of the company that while there is a contributory provident fund of 8-1/3 per cent, a new scheme of gratuity has been introduced which the company is not in a position to shoulder. It is stated that gratuity has to be shown in the accounts as a contingent liability unless a fund is created from reserves, both of which are not practicable propositions at the present time, especially as reserves under competent advice are being diverted towards reduction of the amount shown as goodwill. We are quite unable to accept the proposition that only one retirement benefit is permissible. Quite apart from the fact that it has become a practice to give provident fund plus gratuity wherever the circumstances of the concern permit, it is just and equitable that an employee when he retires or is disabled or is otherwise unable to work should have something substantial to fall back upon. In the prevailing conditions of today when labour gets little more than the necessities of life, it is incumbent on this Tribunal to make provision for the time when an employee is compelled by circumstances to abandon his work. The provident fund provides a certain measure of relief, but even so it must be remembered that in a contributory provident fund a portion of the employee's wages has been already included in the amount which he or his family would ultimately receive. In any event under present day conditions the provident fund by itself provides in most cases insufficient relief in the emergencies to which an employee may be exposed in the course of his life or which his family may have to face on his death. It is therefore appropriate in the nature of things to give two retirement benefits wherever the finances of the concern permit. It is true that in this concern (the accounts of which have been given under seal of confidence) the profits have been modest, but nevertheless the company is doing business in a large way and with normal good business should establish itself in the course of time. It was however suggested in the course of the arguments that the company would have to set apart a sum of Rs. 75,000/- a year for the purpose of gratuity; this is probably what strict accounting requires; indeed according to the proper accounting a gratuity fund would have to be created to provide for

future contingencies. There is no reason however to refuse gratuity to the employees until such a fund does come into existence, for gratuity if it becomes due could be payable from the existing funds of the company and should not have to await the formation of a specific fund. The quantum of gratuity, however, is a matter for consideration, dependent as it is upon capacity. We have already discussed this subject and shall not reiterate what we have said before. We are of the opinion, and we direct, that the scheme of gratuity given by the learned Adjudicator should be substituted by a scheme similar to the one which we have awarded to the employees of certain concerns which have been before us :—

- (1) On the death of an employee while in the service of the company or on his becoming physically or mentally incapable of further service—Half month's salary or wages for each year of continuous service to be paid to the disabled employee or, if he has died, to his heirs or legal representatives or assigns.
- (2) On voluntary retirement or resignation of an employee after 15 years continuous service—Half month's salary or wages for each year of continuous service.
- (3) On termination of service by the company—Half month's salary or wages for each year of completed service.

Gratuity shall not be payable to an employee who is dismissed for misconduct. Salary or wages for the purpose of calculating gratuity shall be the average salary or wages, exclusive of allowances, during the 12 months immediately preceding the death, disability, retirement, resignation or termination of service, as the case may be. The company will of course be at liberty to grant gratuity in excess of the above terms.

22. *Fixation in the Grades.*—The learned Adjudicator has directed that one increment will be given to all employees concerned over and above their existing salaries or wages; to this the company has taken objection. We agree with the view of the learned Adjudicator that having regard to the past salary of the employees and the increases given, there ought to be some adjustment in fixation, but we do not think an additional increment is justified having regard to the fact that the company came into existence in 1946. The employees have been receiving an increment on the 1st April every year, and they must receive the increment which has fallen due on 1st April 1951; but we feel that it would be more equitable if they were fixed in the next higher stage in the scale and we direct accordingly. We agree that the employees whose salaries or wages are lower than the minimum prescribed shall be brought up to the minimum of the scale, and that after the salary and wages are adjusted the employees shall continue to get future increments in the normal way; we also agree with sub-paragraph 5 of paragraph 51 of the award. We feel however that there was no justification for applying the new scales from 1st March 1950 whereas the increments fall due on 1st April 1950. The employees have no objection to giving effect to the new scales from 1st April 1950 and we order accordingly.

23. *Leave.*—The company has raised the question of sick leave dealt with in paragraph 72 of the award. It is the contention of the company that the learned Adjudicator was wrong in allowing the workers an option to convert paid sick leave available on half wages into leave for half the available period on full wages. The company also contends that the learned Adjudicator was in error in the view that he took that no medical certificate need be produced for one day's illness. No appeal lies on the question of leave unless it is a substantial question of law and we do not think that any substantial question of law is involved in the points which the company has raised.

24. Another ground of appeal taken by the company is against the direction to pay retrenchment compensation equivalent to one month's salary exclusive of dearness allowance to one Mr. D. Subramaniam who had been discharged by the company "for reasons not personal to him". Learned Counsel did not press this point but stated that he protested against the principle or lack of principle on which this decision was based. No decision on this point is necessary.

25. The company next objects to the direction of the learned Adjudicator that they should provide transport facilities for the employees from Andheri to Powai provided that a sufficiently large number of persons offer to take advantage of the same. The company is transferring all its business activities to Powai, and as part of a general scheme is undertaking the construction of residential accommodation for its employees at that place. The company previously had its business activities in

different parts of Bombay, and the employees complain that in consequence of their having to proceed to Powai for their daily work they have been seriously inconvenienced as the transport facilities between Andheri and Powai are either non-existent or unsatisfactory. The learned Adjudicator has come to the conclusion that the grievances of the employees residing along the B. B. & C. I. railway line is genuine and he has directed the company to provide transport facilities from Andheri to Powai provided that a sufficiently large number of persons offer to take advantage of the same. This obligation however has been placed temporarily on the company, and if and when convenient services are available from Andheri to Powai the question is to be reconsidered in the light of the circumstances then existing. Admittedly there are no transport facilities between Sakinaka and Powai, and Sakinaka is about 2 miles from Powai on the Andheri Powai road. The company is already providing transport between Andheri and Powai but states that it should not have been compelled to do so by an order of the Tribunal. The providing of reasonable facilities is not a one sided advantage and if by means of this transport the company is creating for itself a more contented labour force which comes fresh to work and in time, the company is the gainer thereby. We do not agree that it was outside the province of the Tribunal to direct the provision of transport facilities, although we agree that before an order is made the circumstances must justify it. There has been no serious effort made to controvert the employees' case that transport facilities between Andheri and Sakinaka are very poor and for all practical purposes non-existent, and that in any event some arrangement would have to be made for the transport of the employees from Sakinaka to Powai. We do not think that the direction of the Adjudicator on this issue is open to correction, especially as he has given this transport as a temporary measure until communications in the area become more satisfactory.

26. There is a counter appeal by the employees and their point of view has of course been considered on the several matters which have been raised in the company's appeal.

27. One of the grounds of appeal taken by the employees concerns the watchman's hours of work. It would appear that the watchman's shift starts from 5-30 p.m. and ends at 8-30 a.m. a period of 15 hours. The learned Adjudicator has directed that when a substantial portion of the transfer to Powai has been achieved the company will give to its watchmen a weekly off and will see that no watchman is required to work beyond 8 hours per day; and that pending such transfer to Powai the company should give at least a weekly off to all its watchmen. Mr. Chari for the employees pressed us that there should be immediate directions that no watchman should be allowed to work for more than 8 hours a day. We confirm however the directions of the learned Adjudicator on this issue.

28. In the result the appeals are allowed to the extent stated and are otherwise dismissed. There will be no order as to costs.

K. P. LAKSHMANA RAO,
President.

F. JEEJEEBHoy,
Member.

Appeal (Bom) No. 47 of 1951

Ford Motor Company of India Limited,
having its Registered Office at Swadeshi
Mills Compound, Girgaum, Bombay.

Appellants.

versus

Its monthly rated employees at the office
of Ford Motor Company of India, Limited,
Girgaum, Bombay as represented
by Bombay 'Automobile Employees'
Union, Congress House, Bombay-4.

Respondents.

Appeal (Bom) No. 62 of 1951

Ford Motors Staff Union, Mazdoor Manzil,
25, Government Gate Road, Parel,
Bombay-13.

Appellants.

versus

The Ford Motor Company of India Limited,
Swadeshi Mills Compound, Queens
Road, Bombay.

Respondents.

In the matter of appeals against the award of the Industrial Tribunal (Shri P. S. Bakhle) Bombay, in Reference (IT) No. 106 of 1949, published in the Bombay Government Gazette, dated 15th February 1951.

The 3rd day of July 1951

Present :

Mr. K. P. Lakshmana Rao, President.

Mr. G. P. Mathur, Member.

Appearances :—

For the appellants in Appeal (Bom) No. 47 of 1951 and the Respondents in Appeal (Bom) No. 62 of 1951.

Mr. A. E. Blair of Messrs. Crawford Bayley & Co.,
Solicitors, instructed by Mr. B. D. Chirputkar, Industrial Relations Officer.

For the respondents in Appeal (Bom) No. 47 of 1951 and the Appellants in Appeal (Bom) No. 62 of 1951.

Mr. C. L. Dudhia, Bar-at-Law, instructed by Mr. C. R. Ramakrishna and Mr. N. K. Sen.

State.—Bombay.

Industry.—Engineering (Automobile).

DECISION

On 22nd November 1946, the employees of Ford Motor Co. of India Ltd., Bombay, formed a union designated as the Ford Motors Staff Union, which was later on amalgamated with the Bombay Automobile Employees' Union, Bombay. The employees were represented by the latter Union before the lower Tribunal, but the appeal has been filed by Ford Motors Staff Union and an assurance has been given by Shri Dudhia that all the employees concerned have since joined this newly constituted Union.

2. In December 1946, the then existing union raised an industrial dispute which after certain formalities was referred to Industrial Tribunal consisting of Shri D. G. Kamerkar under section 10(1) of the Industrial Disputes Act, 1947. An award followed on 5th May, 1948 (AJ-IT No. 21 of 1947) which under a Government Notification came into operation on 17th May 1948, and was given the usual lease of life for one year. Later on, no less than 3 references had to be made for clarification of the said award and supplementary awards, dated 25th August 1948, 16th September 1948 and 9th August 1949 were given by the same Tribunal.

3. On the expiry of the original award, i.e., on 16th May 1949, the Union served a fresh memorandum of demands on the company, most of which were the subject matter of the previous reference and were duly adjudicated upon. Thereafter, some correspondence ensued between the company and the Union, and the letter, dated 21st July, 1949 from the company having been taken to be a refusal, the matter was taken up before a Conciliator. During conciliation proceedings consequent on a joint request of the parties the dispute was referred for adjudication under section 10(2) of the Industrial Disputes Act, by the Bombay Government, on 29th September 1949. On 20th January 1951, Shri P. S. Bakhle, Industrial Tribunal, Bombay gave his award, which was published in Bombay Government Gazette, dated 15th February 1951.

4. Both the parties being dissatisfied with this award have filed two separate appeals. Appeal No. 47 of 1951, being one on behalf of Ford Motor Co., relates to the demand about gratuity only; and the other appeal No. 62 of 1951 on behalf of Ford Motor Staff Union, relates to various other demands on which a decision has been adverse to them.

5. The company's appeal No. 47 of 1951 can shortly be disposed of. Shri Bakhle has maintained the previous award, dated 5th May 1948 (A.J.I.T. No. 21 of 1947) on the question of the terms and conditions of gratuity. While the Company stoutly resists the claim of the Union for a revision of the award of 5th May 1948, on the ground that no change of circumstances justifying a revision has been proved, it desires an amendment of the scheme of gratuity on the grounds (1) that in AJ-IT No. 55 of 1948 (1949 I.C.R. Bombay P. 405) Shri Sen has laid down easier terms (ii) in some other awards the minimum period is 5 years only and (iii) that the company had to pay compensation to retrenched persons and has been contributing 10 per cent. to Provident Fund. We agree with the learned Tribunal that none of the above grounds afford a sufficient reason for altering the scheme of gratuity so recently settled. Such matters stand on the basis of long term planning and should not lightly be disturbed at short intervals. Appeal No. 47 of 1951 shall therefore stand dismissed.

6. The grounds taken in the other appeal cover a vast ground and are very loosely and inartistically framed. It has been laid down by the lower Tribunal that no party should be allowed to re-agitate a question decided by a previous award between the same parties unless a change of circumstances has been established. This proposition

is seriously challenged on behalf of the Union and in support, a number of authorities have been quoted. In our opinion none of those authorities have gone to the root of the matter, and have not given a thought to the distinction that lies between a set of decisions which lay down a permanent scheme or decide a principle and those the effect of which exhausts itself with a single compliance. To illustrate the point, decisions settling the schemes of Provident Fund and Gratuity, Standardization of wages, fixing of scales, etc., would come under the former category while decisions about annual bonus, retrenchment, reinstatement, etc., would fall under the latter.

7. Even if it be legally permissible it would be highly undesirable to disturb at short intervals a scheme once settled as it could not be conducive to industrial peace and tranquility. We therefore agree with the lower Tribunal on this point though not exactly on the same grounds.

8. The second question of law raised by the Union is, that because Divisional Heads, Foremen, etc., came within the definition of "workmen" as given in section 2(s) of the Industrial Disputes Act, their cases were covered by the reference which preceded the award. In the alternative it is urged that even if it is held otherwise they would come under the description of the term "any person" occurring in the definition of "Industrial Dispute" in section 2(k) of the Industrial Disputes Act which runs as follows :—

Industrial Dispute" means any dispute or difference between employers and employers or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person."

9. The matter is highly controversial and conflicting authorities are ranged on either side. But we think that for our present purpose it is not necessary to decide it. The point at issue was whether persons holding posts of responsibility such as Heads of Sections or Departments could be included in that adjudication; and the Tribunal after examining the details relating to each of the persons concerned, decided that 17 of them could not be included in the category of senior clerks; and thus excluded them from consideration. It would be highly undesirable if the very same question is allowed to be reargued so soon after and is decided in a different way. We therefore affirm the decision of the lower Tribunal which upheld the previous decision arrived at by Shri Kamerkar in his award, dated 5th May 1948. It may be mentioned that the lower Tribunal has made it a finding of fact that the Divisional Heads and Foremen are not clerks because their work is of a supervisory nature. But according to the Union their case could still be taken up as they would come within the meaning of "any person" as given in the definition of "Industrial dispute". We put it higher, holding that even if their case could be taken up, they should not be taken up in view of the recent decision in the award, dated 5th May 1948.

10. For identical reasons, we decline to entertain a claim for revision of grades of monthly paid employees which were revised only one year back, merely on the ground that employees in other concerns have secured better terms. The employees ought to have waited for some time at least before coming forward with a fresh demand and launching on a renewed litigation.

11. Another point taken up by the Union is that a demand was made for making the award effective from 17th May 1950, but the learned Tribunal has not made his award retrospective. It would have certainly been to the benefit of the employees but the matter was in the discretion of the Tribunal. No weighty reasons have been shown why we should interfere with his discretion and we therefore confirm the award in that respect.

12. It is urged on behalf of the Union that the amount of the privilege leave should have been increased and that it should have been allowed to accumulate upto 3 months. But under clause 7(b) of the Industrial Disputes (Appellate Tribunal) Act, 1950, no appeal is allowed on the question of leave and we are unable to agree with the learned Counsel that a substantial point of law is involved and therefore an appeal lies under section 7(a) of the same Act. The question whether or not there was an agreement on that matter is purely a question of fact.

13. The cases of First Aiders, Typists, Comptists, Stenographers, Telephone Operators, Car and Truck Drivers, Tea Boys, Water Boys and Sepoys have been mentioned and it is argued that their grades should have been revised. But the main contention of the Union is that there should be only one grade, for such of the above named person who were formerly classified as clerks and all

other clerks, and not four, as provided by Shri Kamerkar in his award. It appears however that the Union itself had suggested the sub-division of clerks in 3 categories while the company had suggested four, and the latter was accepted as it was not objected to. As already observed it would not be compatible with industrial peace and tranquility to take up that matter again at such a short interval. In fact no change of circumstances or any other weighty reasons have been shown for taking this step.

14. The case of the telephone operator was specially discussed and it was urged that as she has reached the maximum of Rs. 175/- a fresh scale should be provided for her. The details of the record of her service and the dates of increments are wanting but apparently she has got a rapid promotion within a short time and nothing has been shown to persuade us to improvise a new scale.

15. In the ground of appeal No. 11 it is mentioned that the learned Adjudicator erred in stating that among the 4 employees in the category of Parts Checkers and Parts Handlers, three were hourly rated, whereas all the four mentioned by the Union were monthly rated. It is admitted by the Attorney for the company that the learned Adjudicator had fallen into a confusion about this category. There were nine persons in the category of Parts Checkers and Parts Handlers of whom 4 Parts Checkers and one Parts Handler were monthly rated and the remaining four Parts Handlers were hourly rated. The names of these individuals were not given in the statement of claim but mentioned at the hearing. No evidence was adduced regarding the salary drawn by the employees in that category and no case was made out for acceding to the demand and it was rightly rejected. As mentioned by the learned Adjudicator it would be open to the Union to raise this question on a subsequent occasion if advised.

16. Another demand of the Union which has been rejected was that annual increments ought to have been awarded to those employees who received no increments in 1947, 1948 and 1949. The Adjudicator does not appear to have dealt with this demand, but apparently it was too vague to be considered. The case of each such person with details should have been separately set out.

17. The next contention is that the learned Adjudicator ought to have ordered that the Acting Allowance at the rate of 50 per cent of the difference in salaries should be paid by the company and instances have been cited in which very meagre acting allowance was drawn. It has rightly been pointed out by the lower Tribunal that this very demand was adjudicated upon in the previous award and merely because in some other awards different or better terms have been fixed there was no reason to alter the award of Shri Kamerkar on that point before it has been given a fair trial for some time.

18. At the end of para 10 of the award the following direction is given :

"I would, therefore, direct the Company that unless a workman is promoted to the post of a supervisory nature, the company should see that the employee concerned is not deprived of any benefits under the awards or otherwise by reason of such transfers."

The Union takes objection to this direction and contends that a workman should not be deprived of any benefit even when he is promoted to a post of supervisory nature. We have heard Mr. Dudhia on this point but in our opinion the direction given is just and proper. When a workman is promoted to a post of supervisory nature he ceases to be a workman and must forfeit any benefit granted to workmen as such. The choice lies with him. He can either accept the promotion and lose the benefits granted to workmen or refuse the promotion and retain the benefits. He cannot have it both ways.

19. The last contention of the Union is that the learned Adjudicator ought to have decided or at least recommended that half the number of Trustees to the Provident Fund should be elected by the members of the Fund. We do not think it was within the competence of the Tribunal to make any such direction or recommendation.

20. In our opinion none of the points taken up on behalf of the Union in this Appeal has got any force and this appeal as well must be dismissed. As both the cross appeals are dismissed the parties shall bear their own costs.

K. P. LAKSHMANA RAO,
President.

G. P. MATHUR,
Member.

DIRECTORATE GENERAL OF SUPPLIES & DISPOSALS

NOTIFICATIONS

New Delhi, the 20th September 1951

No. 659.—In partial modification of this office Notification No. 285, dated the 13th December, 1948, Mr. Edward Durrant, Assistant Inspecting Officer (Engg.), in the Directorate General of Supplies & Disposals at Bombay has been granted earned leave for 26 days with effect from the 25th June 1948 to the 20th July 1948 and in continuation thereof extraordinary leave for 13 days from the 21st July 1948 to the 2nd August, 1948.

No. 660.—In partial modification of this Notification No. IE-1/1(127)/1/47, dated the 30th April 1947, (against S. No. 2), Mr. Edward Durrant, Assistant Inspecting Officer (Engg.) in the Directorate General of Supplies & Disposals at Bombay has been granted earned leave for 40 days with effect from 14th October, 1946 to the 22nd November, 1946 and in continuation thereof extraordinary leave for 5 days from the 23rd November, 1946 to the 27th November, 1946, with permission to prefix Sunday on 13th October 1946 to the leave.

The 21st September 1951

No. 661.—Mr. D. P. Sen, Assistant Inspecting Officer (Chemical) in the Directorate General of Supplies & Disposals at Tatanagar has been granted leave on average pay for 2 months and 21 days on Medical certificate from 9th July 1951 to 29th September 1951 with permission to prefix and suffix Sundays on 8th July 1951 and 30th September 1951 respectively to the leave.

SHIV CHARAN SINGH,

*Director (Administration & Co-ordination)
for Director General of Supplies & Disposals.*

MINISTRY OF COMMERCE AND INDUSTRY

NOTIFICATION

Bombay, the 15th September 1951

No. TCS-IV/CTM/9.—In pursuance of sub-clause (e) of clause 2 of the Cotton Textiles (Control of Movement) Order, 1948, I hereby direct that the following further amendment shall be made in the Textile Commissioner's Notification No. 15-Tex.1/49(ii), dated the 25th March 1950, namely :—

In the table appended to the said notification for entry No. 18, the following shall be substituted, namely :—

“18. Shri S. A. Rauf, Director of
Food and Civil Supplies,
Ajmer.”

T. SWAMINATHAN,
Textile Commissioner.

SURVEY OF INDIA

NOTIFICATION

Bangalore, the 11th September 1951

No. 6.—Mr. S. R. M. Louis, Officer Surveyor attached to No. 8 Party (S.C.) is granted earned leave for 41 days from 6th September 1951 to 16th October 1951 with permission to prefix General Holiday on 5th September 1951 to the leave, under the Revised Leave Rules, 1933.

2. Certified that there is no likelihood of the Officer returning to a post carrying a lower rate of pay on termination of the leave.

3. Certified also that the officer is likely, on the expiry of the leave, to return to duty at Bangalore from where he proceeded on leave.

P. N. SAHA, M.Sc., M.I.S. (Ind.),
*Director, Southern Circle,
Survey of India.*

GEOLOGICAL SURVEY OF INDIA

NOTIFICATION

Calcutta-13, the 19th September 1951

No. 12597.—Director, Geological Survey of India, has been pleased to grant to Mr. V. Gopal, Assistant Geologist, Geological Survey of India, earned leave for 31

days with effect from the forenoon of the 6th September, 1951 with the permission to affix the Puja holidays from the 7th October to the 15th October 1951.

He is likely to resume his duties at Madras whence he has proceeded on leave.

N. K. N. AIYENGAR,
*Assistant Director,
Geological Survey of India.*

DIRECTORATE GENERAL, ALL INDIA RADIO

NOTIFICATIONS

New Delhi, the 20th September 1951

No. 2(3)-A/51.—Mr. M. C. Jugran, officiating Public Relations Officer, All India Radio, Bombay, is granted earned leave for 81 days with effect from the 27th August 1951, with permission to affix closed holiday on the 25th August and Sunday the 26th August 1951 to his leave.

No. 2(10)A/51.—In continuation of the leave sanctioned in this Directorate Notification No. 2(10)A/51, dated the 27th July, 1951, Mr. Romesh Chander, officiating Assistant Station Director, All India Radio, Cuttack was granted an extension of earned leave by 5 days from the 19th August, 1951 with permission to affix closed holiday the 24th August 1951 to the leave.

S. BANERJEE,
*Deputy Director of Administration,
for Director General.*

New Delhi, the 21st September 1951

No. 1(17)A/51.—Miss S. Ralla Ram, Assistant Station Director, All India Radio, Nagpur was transferred to the Jullundur Station, where she took over on the 11th September 1951 (A.N.).

The 22nd September 1951

No. 1(3)-A/51.—Mr. L. Y. Chandoke, officiating Public Relations Officer, All India Radio, Nagpur, was transferred to the Bombay Station where he took over charge on the 17th September 1951.

S. N. SEN,
*Deputy Development Officer (Adm.),
for Director General.*

PRESS INFORMATION BUREAU

NOTIFICATION

New Delhi, the 19th September 1951

No. F.19/8/50-Est.—Shri J. Nigam, temporary Assistant Information Officer, Press Information Bureau, was granted earned leave for 17 days from July 2, 1951 to July 18, 1951 with permission to prefix the holiday on July 1, 1951 to the period of his leave.

B. L. SHARMA,
Principal Information Officer.

DIRECTORATE GENERAL OF HEALTH SERVICES

NOTIFICATIONS

New Delhi, the 19th September 1951

No. 15-45/51-P.H.I.—Dr. C. P. Nair, Malaria Assistant, Malaria Institute of India, Delhi, is placed on deputation abroad with effect from the 12th August 1951.

No. 15-73/50-P.H.I.—Shree Mohindar Singh Ch●●a relinquished charge of his duties as Malaria Assistant at the Malaria Institute of India, Delhi, on the afternoon of the 14th August 1951.

T. C. PURI,
for Director General of Health Services.

INDIAN AGRICULTURAL RESEARCH INSTITUTE

NOTIFICATION

New Delhi, the 20th September 1951

No. F.7/21070.—Shri T. J. Malkani is confirmed in the class II post of Assistant Plant Physiologist at I.A.R.I. with effect from 1st October 1950.

B. P. PAL,
Director.

CENTRAL MARINE FISHERIES RESEARCH STATION

NOTIFICATION

Mandapam Camp, the 22nd September 1951

No. 2937.—Shri R. Velappan Nair, Assistant Research Officer (Sardines) of this department at the Calcutt Sub-Station is granted earned leave for 20 days from 3rd September 1951 to 22nd September 1951 with permission to avail the holidays on 2nd September 1951 and 23rd September 1951.

Shri S. K. Banerji, Assistant Research Officer, (Statistics) of this department at Mandapam Camp is granted earned leave for 17 days from 6th September 1951 to 22nd September 1951 with permission to avail the holidays on 6th September 1951 and 23rd September 1951.

Both the officers are likely to return to their respective posts on expiry of the leave.

N. K. PANIKKAR.
Chief Research Officer.

INDIAN VETERINARY RESEARCH INSTITUTE

NOTIFICATION

Izatnagar, U.P., the 21st September 1951

No. 9229-31/G.—Dr. B. C. Basu, D.Sc., Research Officer (Entomology), Section of Parasitology, Indian Veterinary Research Institute, Izatnagar, was granted earned leave for 55 days from the 4th June, 1951 to the 28th July, 1951, with permission to affix Sunday the 29th July, 1951.

S. DATTA.
Director.

INDIAN POSTS AND TELEGRAPHS DEPARTMENT

Directorate-General of Posts and Telegraphs

NOTIFICATION

New Delhi, the 17th September 1951

No. SPA. 73-2/51.—Consequent on the reorganisation of the Postal Service, Shri Rabi Ray, officiating Deputy Director, P. & T., Assam Circle, is posted as officiating Senior Superintendent of Post Offices, Banaras Division, in the Senior Time Scale of the Indian Postal Service, Class I with effect from the 10th September, 1951.

KRISHNA PRASADA,
*Director-General,
Posts and Telegraphs.*

OFFICE OF THE DIRECTOR GENERAL OF CIVIL AVIATION

NOTIFICATIONS

New Delhi, the 17th September 1951

No. EA.15-5/51.—In continuation of this office Notification of even number, dated the 6th July 1951, thirty days extension of earned leave with effect from the 3rd August 1951 was granted to Shri J. N. Dhar, Offg. Aerodrome Officer, Calcutta Airport, Dum Dum.

The 19th September 1951

No. EH.11-45/51.—Shri D. B. Kashyap, on relinquishing his duties as Assistant Director of Training & Education in the Civil Aviation Directorate, New Delhi, on the afternoon of 31st August, 1951, was transferred to the office of the Controller of Aerodromes, Madras Region, where he assumed charge as Senior Aerodrome Officer on the 5th September, 1951.

The 21st September 1951

No. E(C)11-41/50.—Mr. R. N. Chatterjee, Assistant Technical Officer, Civil Aviation Department, has been granted leave ex-India as detailed below, with effect from the 1st September, 1951 :—

Earned leave—142 days.

Half-pay leave—120 days.

and extraordinary leave without pay thereafter, upto the 31st October, 1952.

No. EA15-1/51(II).—Shri R. N. Duggal, Assistant Aerodrome Officer, Safdarjung Airport, New Delhi has been granted earned leave for 27 days with effect from the

3rd September 1951, with permission to pre-fix and suffix Sundays, the 2nd and 30th September 1951.

No. EA15-1/51(II).—In continuation of this office notification No. EA15-1/51, dated the 26th March 1951, Shri S. P. Yadav, Assistant Aerodrome Officer, Santacruz has been granted extension of earned leave for 7 days with effect from the 25th March 1951, with permission to suffix Sunday, the 1st April, 1951.

No. E(C)15-4/51.—Mr. K. S. Rajagopalan, Senior Technical Officer, Central Radio Stores Depot, New Delhi, has been granted earned leave for 61 days with effect from the 10th September, 1951, with permission to prefix Sunday, the 9th September, 1951, to his leave.

No. E(C)15-10(v)/51.—In continuation of the leave granted to him in this Department Notification of even number, dated the 23rd July 1951, Mr. S. K. Kasturi Rangan, Assistant Technical Officer, Radio Development Unit, New Delhi, was granted an extension of earned leave for 14 days with effect from the 2nd September 1951, with permission to suffix Sunday, the 16th September 1951, to his leave.

D. CHAKRAVERTI,
Offg. Director General of Civil Aviation.

INDIA METEOROLOGICAL DEPARTMENT

NOTIFICATION

New Delhi-3, the 19th September 1951

No. E(I).03914.—On return from leave, Mr. V. K. Ramabhadran, M.A., resumed duty as Offg. Assistant Meteorologist in the Meteorological Office, Poona, on the forenoon of the 10th September 1951.

A. K. ROY,
for Director General of Observatories.

COLLECTORATE OF CENTRAL EXCISE

NOTIFICATIONS

Hyderabad (Dn.), the 10th September 1951

No. 6/51.—Under Section 2(a) of the Indian Coconut Committee Act, 1944 and 2(b) of the Indian Oil Seeds Committee Act, 1946 which have been extended to all Part 'B' States except Jammu and Kashmir the Government of India have appointed the Collector of Central Excise, Hyderabad, as "Collector" for the purpose of the above Acts in the States of Hyderabad and Mysore. Under the above sections I hereby authorise Superintendents of Central Excise within my jurisdiction to exercise the powers of Collector under Sections 10 and 11 respectively, of both the Acts and also authorise all Central Excise Officers not below the rank of an Inspector to perform the duties of "Collector" imposed by Section 13 of both the Acts.

The 17th September 1951

No. 10.—Shri K. S. Tirmizi, Officiating Superintendent of Central Excise, Aurangabad Circle, was granted leave on average pay for 16 days from 7th July 1951 to 22nd July 1951 (both days inclusive).

On return from leave Shri K. S. Tirmizi rejoined the Aurangabad Circle on the forenoon of 23rd July, 1951.

C. B. PHILLIPS,
*Collector of Central Excise,
Hyderabad & Mysore.*

Calcutta, the 20th September 1951

No. 21.—The following transfers and postings of Assistant Collectors of Central Excise are hereby notified :—

- | | |
|---|--|
| 1. Sri Ajit Kumar Roy, (On return from leave) (Officiating). | Re-posted to Cooch Behar Division from 3-9-51 Afternoon. |
| 2. „ Shyan Singh Pantal, Cooch-Bihar Division. (Officiating). | Land Customs Division (Calcutta, from 14-9-51 forenoon. |

No. 22.—Sri Dharendra Nath Mitra, a temporary Deputy Superintendent of Central Excise, appointed to officiate as Superintendent of Central Excise vide Board's Notification No. 84, dated 6th September 1951 has been posted to Jalpaiguri I Circle with effect from 14th August 1951 afternoon.

J. W. ORR,
*Collector
of Central Excise, Calcutta.*

Allahabad, the 21st September 1951

No. 17.—Shri G. D. Mittal, a Superintendent of Central Excise, Allahabad, is granted 15 days earned leave from the 29th August 1951 to the 12th September 1951 (both days inclusive) with permission to suffix Id-uz-Zuha holiday on the 13th September 1951.

S. C. SATYAWADI,
Collector of Central Excise, Allahabad.

CENTRAL PUBLIC WORKS DEPARTMENT

NOTIFICATIONS

New Delhi, the 18th September 1951

No. 02087-EIV.—Shri H. L. Dutt, Assistant Engineer (Electrical), Class II is granted extraordinary leave without pay and allowances for 31 days with effect from the 1st October 1951 in continuation of the extraordinary leave without pay and allowances granted vide this office notification No. 02087-EIV, dated the 10th September 1951.

No. 02142-EI.—Shri O. P. Mohindra, Executive Engineer, Construction Division No. 1, New Delhi, was granted earned leave for 7 days with effect from the 4th June 1951.

It is certified that Shri Mohindra was likely to return, after expiry of his leave to the same post from which he proceeded on leave.

The 19th September 1951

No. 07048-EI.—Shri V. Kandaswamy, Officiating Executive Engineer, Diplomatic Enclave Division, Central P.W.D., New Delhi, is granted an extension of 7 days earned leave in continuation of 20 days earned leave granted to him with effect from the 20th August, 1951 vide this Office Notification No. 07048-EI, dated the 7th September, 1951.

The 21st September 1951

No. 02045-EI.—Shri R. G. Predhan, Assistant Engineer, attached to the Development Division, New Delhi, was granted leave on average pay for two weeks with effect from the 10th September 1951, in continuation of leave on average pay for 1 month already sanctioned to him vide this Office Notification No. 02045-EI, dated the 12th September 1951.

B. S. PURI,
Chief Engineer.

DEPARTMENT OF MINES

NOTIFICATION

Dhanbad, the 21st September 1951

No. 12174-G.—Shri B. M. Bhatt, Junior Inspector of Mines was granted earned leave for 25 days with effect from 21st August 1951.

S. S. GREWAL,
Offg. Chief Inspector of Mines in India.

OFFICE OF THE COMMISSIONER OF INCOMETAX

NOTIFICATIONS

Bombay, the 15th September 1951

No. 30.—Shri M. H. Mirdhe, Inspector, Income-tax Office, Belgaum, was appointed to officiate as Income-tax Officer, Class II, Grade III, as a temporary measure, for a period of three months from the 27th August 1951 and posted as Additional Income-tax Officer, Ward-A, Bijapur until further orders.

No. 31.—Shri A. K. Ramachandra Prabhu, probationary Income-tax Officer, Class I, Grade II was appointed to officiate as Addl. Income-tax Officer, Ward-A, Dharwar with effect from the 31st August 1951.

No. 32.—Shri G. V. Kumbhare, a retired employee was as a temporary measure re-appointed as Income-tax Officer, Class II, Grade III with effect from the 24th August 1951, and posted as Additional Income-tax Officer, General Headquarters, Poona until further orders.

No. 33.—The following postings of the Income-tax Officers were ordered with effect from the 4th September 1951.

- (1) Shri S. V. Deva, Income-tax Officer, Class I, Grade II, Ward-A, Poona to be Income-tax Officer, Ward-G, Poona, vice Shri A. C. Jain.

- (2) On relief by Shri Deva, Shri A. C. Jain, Income-tax Officer, Class I, Grade II, to be Income-tax Officer, Ward-A, Poona.

No. 34.—Shri S. S. Kapur, Probationary Income-tax Officer, Class I, Grade II, was appointed Additional Income-tax Officer, Ward-G, Poona with effect from the 29th August 1951.

No. 35.—Shri S. S. Kapur, Additional Income-tax Officer, Ward-G, Poona was appointed Income-tax Officer, Ward-G, Poona with effect from the afternoon of the 4th September 1951 vice Shri S. V. Deva permitted to join service under the Home Ministry.

No. 36.—In exercise of the powers vested in him under section 46(3) of the Indian Income-tax Act, 1922 (XI of 1922), the Commissioner of Income-tax, Bombay South, is pleased to direct that arrears of Income-tax revenue may be recovered by any process enforceable for the recovery of any municipal tax or local rate in Thana District within his jurisdiction in which such municipal tax or local rate has been imposed under any enactment for the time being in force in Thana District and to further direct under section 46(4) of the said Act that the powers and duties incident under any such enactment as aforesaid to the enforcement of any process for the recovery of a municipal tax or local rate shall be exercised or performed by the Income-tax officers of that District.

No. 37.—In exercise of the powers vested in him under Section 46(3) of the Indian Income-tax Act, 1922 (XI of 1922), as applied to Business Profits Tax Act, 1947 by virtue of Section 19 of the Business Profits Tax Act read with Section 21 of the Excess Profit Tax Act, 1940 and all other powers vested in him thereunto enabling, the Commissioner of Income-tax, Bombay South, Bombay, is pleased to direct that in the area within his jurisdiction, arrears of business Profits Tax due from any assessee may be recovered by any process enforceable for the recovery of any Municipal tax or local rate in any part of the said area in which Municipal tax or local rates have been imposed under any Act for the time being in force and to further direct that under section 46(4) of the Indian Income-tax Act, as applied to Business Profits Tax Act, 1947 by virtue of Section 19 of the Business Profits Tax Act read with Section 21 of the Excess Profits Tax Act, 1940, the powers and duties incident under any such enactment as aforesaid to the enforcement of any process for the recovery of Municipal tax or local rate, shall be exercised or performed by the Income-tax Officer dealing with the assessee who is in arrears as aforesaid.

No. 38.—In exercise of the powers vested in him under Section 46(3) of the Indian Income-tax Act, 1922 (XI of 1922) as applied to Excess Profits Tax by virtue of Section 21 of the Excess Profits Tax Act, 1940 and of all other powers vested in him thereunto enabling, the Commissioner of Excess Profits Tax, Bombay South, Bombay, is pleased to direct that in the area within his jurisdiction, arrears of Excess Profits Tax due from any assessee may be recovered by any process enforceable for the recovery of any Municipal Tax or local rate in any part of the said area in which Municipal taxes or local rates have been imposed under any Act for the time being in force and to further direct that under Section 46(4) of the Indian Income-tax Act as applied to Excess Profits Tax by virtue of Section 21 of the Excess Profits Tax Act, 1940, the powers and duties incident under any such enactment as aforesaid to the enforcement of any process for the recovery of Municipal tax or local rate shall be exercised or performed by the Excess Profits Tax Officer dealing with the assessee who is in arrears as aforesaid.

H. M. PATTANAIK,
Commissioner of Income-tax,
Bombay South, Bombay.

Lucknow, the 11th September 1951

No. 131.—Shri S. Narayan, Incometax Officer, A-Ward, Dehra Dun, was appointed to hold charge of Incometax Officer, B-Ward, Dehra Dun, in addition to his own duties with effect from 11th July 1951 A.N.

No. 133.—Shri S. S. B. Arora, Additional Incometax Officer, A-Ward, Dehra Dun, was appointed to hold charge of Incometax Officer, A & B Wards, Dehra Dun, in addition to his own duties, with effect from 13th July 1951.

No. 134.—Shri S. Narayan, Incometax Officer, A. & B. Wards, Dehra Dun was granted earned leave for 21 days with effect from the above date.

No. 135.—On return from leave Shri S. Narayan was re-posted to Dehra Dun as Incometax Officer, A-Ward and

Shri S. S. B. Arora, Incometax Officer, B-Ward and Additional Incometax Officer, A-Ward, Dehra Dun, ceased to hold the additional charge of A-Ward, Dehra Dun, with effect from 3rd August 1951.

No. 136.—In supersession of this Office Notification No. 98, dated 24th July 1951, Shri Ram Raj Singh, Incometax Officer, C-Ward, Banaras, was granted earned leave for 31 days followed by leave on half pay for 14 days on private affairs with effect from 14th May 1951 with permission to prefix Sunday, the 13th May 1951, to the leave.

DALIP SINGH,

Commissioner of Incometax, UP & VP, Lucknow.

ORDER

Delhi, the 17th September 1951

No. K-2(III)/R-19071.—The following postings of Income-tax Officers are made with effect from the date of its issue :—

1. Shri B. D. Kapur, Income-tax Officer, A-Ward, Jaipur, is posted as II-Addl. Income-tax Officer, Ajmer, in addition to his own duties.
2. Shri R. I. Chadha, Income-tax Officer, A-Ward, Jodhpur is posted as III-Addl. Income-tax Officer, Ajmer, in addition to his own duties.
3. Shri K. N. Srivastava, Income-tax Officer, A-Ward, Bikaner is posted as IV-Addl. Income-tax Officer, Ajmer, in addition to his own duties.
4. Shri R. D. Saxena, Income-tax Officer, Kotah, is posted as V-Addl. Income-tax Officer, Ajmer, in addition to his own duties.
5. Shri Chand Raj Mehta, Income-tax Officer, Ratlam, is posted as VI-Addl. Income-tax Officer, Ajmer, in addition to his own duties.
6. Shri S. D. Gupta, Income-tax Officer, A-Ward, Udaipur, is posted as VII-Addl. Income-tax Officer, Ajmer, in addition to his own duties.

INDARJIT SINGH,

Commissioner of Income-tax.

Delhi, Ajmer, Rajasthan and Madhya Pradesh.

DEPARTMENT OF INSURANCE

NOTIFICATION

Simla-4, the 29th September 1951

No. 838-INS. ADM(42)/51.—Mr. D. B. Umarani, B.Sc., A.I.A., an Assistant (Actuarial), is appointed to officiate as Technical Superintendent with effect from the 1st September, 1951, vice Mr. G. M. Gadgil promoted as Assistant Controller of Insurance.

A. RAJAGOPALAN,

Controller of Insurance.

CENTRAL WATER & POWER COMMISSION

NOTIFICATION

New Delhi, the 17th September 1951

No. 186/71/48-Adm.—Consequent on the opening of Workshop Sub-Division of Mechanical Division, Tapi Construction Circle on 1st June 1951, Shri S. D. Kushare, Assistant Engineer took over charge of the Workshop Sub-Division and relinquished charge of the post of Assistant Engineer attached to Mechanical Division, Madhi on 1st June 1951 F.N.

The 20th September 1951

No. 186/84/51-Adm.—Shri K. S. Chetty, Assistant Director, Central Water and Power Commission, was granted earned leave for 27 days, with effect from the 20th August, 1951, with permission to prefix Sunday, the 19th August, 1951 and suffix Sunday the 16th September, 1951, to the leave.

No. 186/146/51-Adm.—Shri A. K. Ganguli has been appointed as a temporary Extra Assistant Director in the Central Water and Power Commission, with effect from the 4th September, 1951 (F.N.).

V. S. ANNASWAMI,

Secretary,

for Chairman,

Central Water & Power Commission.

EAST INDIAN RAILWAY

NOTIFICATIONS

Calcutta, the 17th September 1951

No. AE.2974-1.—The under mentioned officers officiating as Asstt. Printing Superintendents in the Lower Gazetted Service on this railway are confirmed in that service in the Printing Department of this railway with effect from the date noted against each :—

1. Mr. H. P. Moitra—6-6-47.

2. Mr. M. S. Rao—29-12-49.

This supersedes this railway's notification No. AC.190-2, dated 17th August 1950 published in the Gazette of India, dated the 26th August 1950.

The 19th September 1951

No. G/Staff/21.—Mr. J. N. Uppal, Asstt. Commercial Manager, BSB (Junior Scale) was granted leave on average pay for 60 days from 24th October 1950 to 22nd December 1950.

The 20th September 1951

No. Gor/PF/Tomar.—Mr. D. S. Tomar, Officiating Divisional Personnel Officer (Senior Scale), Sealdah, was granted 60 days leave on average pay with effect from 15th June 1951.

K. B. MATHUR,

General Manager.

EASTERN PUNJAB RAILWAY

NOTIFICATIONS

Delhi, the 10th September 1951

No. 97.—Shri Mohinder Singh, Officiating Divisional Mechanical Engineer, E.P. Railway, was granted leave on average pay for a period of 3 days with effect from 16th August, 1951, with permission to prefix and suffix 15th and 19th August, 1951, being Gazetted holidays.

No. 98.—Shri R. K. Puri, Officiating Class II Officer, Accounts Department, Eastern Punjab Railway, is appointed to officiate as Divisional Accounts Officer in senior scale in that Department, on this Railway with effect from 11th July, 1951.

The 11th September 1951

No. 100.—Shri Gurdial Singh, a Subordinate of the Civil Engineering Department, Eastern Punjab Railway, is appointed to officiate in Class II Service in the Watch and Ward Department, on this Railway, with effect from 3rd September, 1951.

The 18th September 1951

No. 103.—Shri Mohinder Singh, Officiating Divisional Mechanical Engineer, Eastern Punjab Railway, is granted leave on average pay for a period of 37 days with effect from 6th September, 1951.

The 19th September 1951

No. 104.—Shri R. K. Sehgal, a Subordinate of the Transportation (Traffic) and Commercial Department, Eastern Punjab Railway, is appointed to officiate in Class II service in that Department, on this Railway with effect from 14th August, 1951.

DAYA CHAND,

Chief Administrative Officer.

ASSAM RAILWAY

NOTIFICATION

Pandu, the 17th September 1951

No. 202E/58(O).—Shri Ramesh Chandra, Offg. Executive Engineer, Assam Railway, was granted leave on average pay for 29 days with effect from 21st April 1951 to 19th May 1951 and commuted leave for 41 days from 20th May 1951 to 29th June 1951.

B. ARORA,

Chief Administrative Officer,

Assam Railway.

ODISH TIRHUT RAILWAY

NOTIFICATIONS

Gorakhpur, the 17th September 1951

1. Shri P. A. Menon, on return from leave has been posted as Assistant Personnel Officer (Ruling) with effect from 29th August 1951 F.N.

1. Shri K. Jayaram, Junior Accounts Officer, has been granted 43 days L.A.P. with effect from 25th August 1951 F.N.

G. PANDE,
General Manager.

BENGAL NAGPUR RAILWAY

NOTIFICATIONS

Calcutta, the 10th September 1951

No. 14B/2.—Mr. R. D. Dubey, Stores Inspector, is promoted to officiate in Class II Service as Assistant Engineer with effect from 21st July 1951 F.N.

No. L/140.—Mr. Kameswar Prasad, Assistant Works Manager (Wagon) is appointed to hold current charge of the post of District Loco & Carriage Superintendent with effect from 6th August 1951 F.N.

No. L/152.—Mr. R. Kochar, Assistant Secretary (Complaints) on probation reverted to the Mechanical Department and is appointed as officiating Assistant Works Manager (Wagon) with effect from 7th August 1951 F.N.

No. M/31.—Dr. B. B. Chaudhuri, Officiating Assistant Medical Officer, is promoted to officiate as District Medical Officer with effect from 28th December 1950 F.N.

No. M/41.—Dr. H. S. Chaudhuri, Assistant Surgeon, Grade I, is promoted to officiate as District Medical Officer with effect from 4th May 1951 A.N.

No. 14E/2.—Dr. A. K. Bhattacharjee, Assistant Surgeon, Grade I, is promoted to officiate as Assistant Medical Officer with effect from 7th May 1951 F.N.

No. 14E/2.—Dr. P. Basu, Assistant Surgeon (Malaria), Grade I, is promoted to officiate in the temporary Class II post of Assistant Malariologist with effect from 27th August 1951 F.N.

No. S/27.—Mr. N. Bysack, Stores Carriage Duplicate Inspector, is promoted to officiate as Assistant Controller of Stores (Class II) with effect from 1st August 1951 F.N.

No. D/41.—Mr. T. O. Johnson, Officiating Assistant Superintendent, Catering (Class II) was appointed to officiate as Assistant Secretary, Complaints (Class II) for the period from 7th August 1951 F.N. to 29th August 1951 A.N. and thence as Station Executive Officer (Class II) with effect from 1st September 1951 F.N.

No. D/29.—Mr. A. N. Seine, Officiating Assistant Personnel Officer (Traffic) (Class II) on transfer to the General Manager's Office is appointed as officiating Assistant Secretary, Complaints (Class II) with effect from 30th August 1951 F.N.

No. 14G/2.—Mr. Becharam Chatterjee, Officiating Office Assistant, is promoted to officiate in Class II Service as Asstt. Personnel Officer (Traffic) with effect from 30th August 1951 F.N.

No. T/214.—Mr. D. Bhattacharjee, Traffic Office Assistant, is promoted to officiate in Class II Service as Asstt. Commercial Officer (Operating) with effect from 28th July 1951 F.N.

No. T/210.—Mr. W. C. A. Watson, Officiating Coal Manager reverted in Class II Service as officiating Asstt. Transportation Officer (Operating) with effect from 27th June 1951 F.N.

No. 14D/2.—Mr. K. K. Koul, Senior Accountant, is promoted to officiate as Assistant Accounts Officer with effect from 27th June 1951 F.N.

No. V/H.—Mr. B. Lazar, 3rd Engineer, S.D. "Vizagapatam", is promoted to officiate in Class II Service as 2nd Engineer, Vizagapatam Port, with effect from 13th August 1951 F.N.

No. 14/236-LLXXXII.—The undermentioned officers have been granted leave with effect from the dates noted against their names :—

Name	Designation	Nature of leave taken	Date from which availed of
Mr. Harnam Singh	Asstt. Engineer (Class II)	Leave on average pay for 49 days and leave on half average pay for 11 days preparatory to retirement.	10.7.51 F.N.
Mr. N. Bysack	Offg. A.C.O.S. (Class II)	Leave on average pay for 2 months.	1.6.51 F.N.
Mr. Apjit Singh	F.A. & C.A.O.	Leave on average pay for 4 days.	5.9.51 F.N.

Name	Designation	Nature of leave taken	Date from which availed of
Mr. Y. Raj	Claims Officer	Leave on average pay for 13 days and leave on half average pay for 2 days.	19.5.51 F.N.
Mr. K.H. Lennon	Offg. A.C.O. (Class II)	Combined leave for 18 months ex India viz., privilege leave for 10 days and ordinary furlough for 17 months and 12 days preparatory to retirement.	16.7.51 F.N.
Mr. S.A. Yusoff	Dy. T.M.A.	Extension of privilege leave for 23 days.	10.7.51 F.N.
Mr. K.K. Koul	Offg. A.A.O.	Extension of leave on average pay for 7 days.	20.6.51 F.N.
Mr. S.K. Khanna	Offg. A.T.O. (Class II)	Leave on average pay for 13 days.	6.6.51 F.N.
Mr. R.A. Vernieux	A.C.O.S.	Combined leave for 3 months and 1 day ex India, viz. leave on full pay for 9 days and leave on half pay for 2 months and 23 days upto 1.11.51, i.e., the date on which his notice of resignation terminates.	1.8.51 F.N.

No. 14/236-LLXXXIII.—The undermentioned officers returned to duty from leave on the dates noted against their names :—

Name	Designation	Date of resuming duty.
Mr. N. Bysack	Offg. A.C.O.S. (Class II)	1.8.51 F.N.
Mr. Y. Raj	Claims Officer	4.6.51 F.N. (3.6.51 being Sunday).
Mr. S.A. Yusoff	Dy. T.M.A.	2.8.51 F.N.
Mr. K.K. Koul	Offg. A.A.O.	27.6.51 F.N.
Mr. S.K. Khanna	Offg. A.T.O. (Class II)	19.6.51 F.N.
Mr. Apjit Singh	F.A. & C.A.O.	10.9.51 F.N. (9.9.51 being Sunday).

P. C. BAHL,
General Manager.

MINISTRY OF RAILWAYS

Jodhpur Railway

NOTIFICATIONS

Jodhpur, the 19th September 1951

No. ES51N01/Jodhpur.—On return from leave Mr. Narain Asopa, Chief Traffic Manager, resumed duty on 16th July 1951 (15th being Sunday).

(2) On return from leave Mr. K. Harnath Singh, Ag. Chief Mechanical Engineer, resumed duty on 20th July 1951.

M. A. RAO,
General Manager,
Jodhpur Railway.

Scindia State Railway

Gwalior, the 18th September 1951

No. ES50N01/Scindia.—1. Mr. M. A. Rizvi, Subordinate is appointed to officiate as Traffic Superintendent, with effect from 1st April 1950.

2. Mr. C. S. Mehta, General Manager, was granted 37 days privilege leave preparatory to retirement with effect from 5th July 1950.

3. Mr. G. L. Kavadey, Chief Mechanical Engineer and Deputy General Manager, is appointed to officiate as General Manager with effect from 5th July 1950.

4. Mr. S. L. Athavale, Personal Assistant to General Manager was granted privilege leave from 22nd August 1950 to 5th September 1950.

5. Mr. G. L. Kavadey, General Manager was granted privilege leave from 18th June 1951 to 23rd June 1951.

G. L. KAVADEY,
General Manager,
Scindia State Railway.

Jaipur State Railway*Jaipur, the 16th September 1951*

No. ES50N01/Jaipur.—Mr. N. G. Joshi, Deputy Loco Superintendent, was granted leave on full pay from the 4th to the 6th December 1950.

HARI SINHA,
General Manager,
Jaipur State Railway.

Rajasthan Railway*Udaipur, the 19th September 1951*

No. ES50N01/Rajasthan.—1. Mr. Brij Lal Grover, F.A. & C.A.O., was granted leave on average pay from 4th April 1950 to 24th May 1950.

2. Captain H. S. Henry, Medical Officer, was granted 21 days privilege leave from 13th May 1950 to 2nd June 1950.

3. Mr. S. C. Chatterji, Traffic Manager, was granted 15 days privilege leave with effect from 31st July 1950.

4. Mr. P. N. Tikku, Asstt. Mech. Engineer, was appointed to officiate as Chief Mechanical Engineer with effect from 1st November 1950.

5. Mr. P. S. Khamesra, General Manager, was granted 20 days' privilege leave with effect from 22nd May 1951.

6. Captain H. S. Henry, Medical Officer was granted 10 days privilege leave with effect from 17th October 1950.

7. Mr. H. G. Trivedi, Asstt. Traffic Supdt., was granted 6 days' privilege leave with effect from 3rd November 1950.

8. Mr. Anand Prakash, Secretary to the General Manager was granted 15 days' privilege leave with effect from 13th November 1950 with permission to affix holidays on 11th and 12th November 1950.

9. Mr. B. L. Bhatnagar, Asstt. Controller of Stores was granted 8 days' privilege leave with effect from 20th November 1950.

10. Mr. B. L. Sharma, Accounts Officer, was granted 10 days' privilege leave with effect from 20th November 1950.

11. Mr. B. L. Bhatnagar, Asstt. Controller of Stores was granted six weeks' privilege leave with effect from 26th December 1950.

12. Mr. B. L. Grover, F.A. & C.A.O., was granted 20 days' privilege leave with effect from 16th February 1951.

13. Mr. H. G. Trivedi, Asstt. Traffic Supdt., was granted one month's privilege leave with effect from 19th May 1951.

14. Mr. R. S. Jhaj, Tem. Asstt. Engineer, was granted 2 month's leave on average pay (with effect from 21st May 1951) with permission to prefix Sunday the 20th May 1951.

15. Mr. B. L. Sharma, Accounts Officer, was granted 20 days, privilege leave with effect from 28th May 1951.

P. S. KHAMESRA,
General Manager,
Rajasthan Railway.

Saurashtra Railway*Gondal, the 21st September 1951*

No. ES50N01/Saurashtra.—1. Mr. B. S. Jadhav, Asstt. Works Manager, was granted leave on average pay from 26th May 1950 to 10th June 1950.

2. Mr. C. M. Mehta, Asstt. Traffic Superintendent, was granted leave on average pay from 1st April 1950 to 31st May 1950.

3. Mr. P. G. Parekh, Asstt. Traffic Superintendent, is appointed to officiate as Distt. Traffic Superintendent with effect from 1st June 1950.

4. Mr. C. M. Mehta, Asstt. Traffic Superintendent is appointed to officiate as Superintendent of Rates with effect from 1st June 1950.

5. Mr. I. C. Shastri, a subordinate is appointed to officiate as Asstt. Traffic Superintendent with effect from 1st June 1950.

6. Mr. K. T. Bhatt, a subordinate is appointed to officiate as Asstt. Traffic Superintendent with effect from 1st June 1950.

7. Mr. R. S. Chudasama, a subordinate of the Stores Department is appointed to officiate as Superintendent Watch and Ward with effect from 1st June 1950.

8. Mr. B. I. Pandya, an officer of the Stores Department is appointed to officiate as Secretary to General Manager, with effect from 8th April 1950.

9. Mr. H. K. Nanda, Secretary to General Manager was granted leave preparatory to retirement from 7th February 1950 to 30th April 1950.

10. Mr. M. D. Oza, Asstt. Accounts Officer, is appointed to officiate as Senior Accounts Officer with effect from 1st June 1950.

11. Mr. C. A. Bhutti, a subordinate is appointed to officiate as Asstt. Accounts Officer with effect from 1st June 1950.

12. R. K. Shree Madhavsinhji, Distt. Traffic Superintendent is appointed to officiate as Asstt. General Manager with effect from 17th August 1950.

13. Mr. G. K. Rana, Asstt. Controller of Stores was granted privilege leave from 28th May 1950 to 31st July 1950.

14. Mr. V. K. Dave, Asstt. Engineer was granted privilege leave from 29th August 1950 to 28th September 1950.

15. Mr. S. K. Joshi, Officiating Asstt. Engineer was granted leave on average pay from 4th December 1950 to 3rd January 1951.

16. Mr. M. S. Mani, Superintendent of Movements reverted to his parent Railway (Madras and Southern Maharatta Rly) with effect from 1st March 1951.

17. Mr. J. R. Thaker, Asstt. Traffic Superintendent is appointed to officiate as Superintendent of Movements with effect from 1st March 1951.

18. Mr. K. B. Bhatt, Chief Accounts Officer was granted leave on full average pay from 15th January 1950 to 3rd March 1950 and 5th June 1950 to 26th July 1950.

19. Mr. L. B. Audich, Senior Accounts Officer officiated as Chief Accounts Officer from 15th January 1950 to 3rd March 1950 and again from 5th June 1950 to 26th July 1950.

20. Mr. D. P. Oza, Officiating Asstt. Accounts Officer, officiated as Senior Accounts Officer from 5th June 1950 to 26th July 1950.

21. Mr. L. B. Audich, Senior Accounts Officer, was granted leave on full average pay from 27th March 1951 to 12th April 1951.

22. Mr. J. R. Thaker, Offg. Superintendent of Movements was granted leave on full average pay from 19th April 1951 to 18th May 1951.

23. Mr. B. I. Pandya, Secretary to the General Manager, was granted leave on average pay from 14th May 1951 to 9th July 1951.

24. Mr. P. P. Rindani, a subordinate officiated as Secretary to the General Manager from 14th May 1951, to 7th July 1951.

25. Mr. J. R. Thaker, Asstt. Traffic Superintendent, officiated as Distt. Traffic Superintendent from 20th August 1950 to 5th January 1951.

26. Mr. S. M. Shah, Executive Engineer was granted leave on full average pay from 13th April 1951 to 22nd April 1951.

The following officers retired from railway service from the date noted against each :—

Serial No.	Name	Designation	Date
(i)	Mr. N. B. Parmar	Asstt. Works Manager	31-5-50 A.N.
(ii)	Mr. N. H. Bhatt	Distt. Traffic Supdt.	1-6-50 A.N.
(iii)	Mr. L. P. Vyasa	Asstt. Traffic Supdt.	1-6-50
(iv)	Mr. B. V. Mehta	Temporary L. A. & Asstt. Traffic Supdt.	1-6-50
(v)	Mr. M. L. Parmar	Offg. Asstt. Engineer	31-7-50 A.N.
(vi)	Mr. Nanaksingh S. Baxi	Supdt. Watch & Ward.	31-5-50 A.N.
(vii)	Mr. S. R. Sharma	Offg. Senior Accounts Officer	31-5-50 A.N.
(viii)	Mr. H. C. Booker	Distt. Loco. Officer	1-10-50
(ix)	Mr. D. P. Oza	Offg. Asstt. Accounts Officer	1-1-51 P.N.
(x)	Mr. K. B. Bhatt	Chief Accounts Officer	24-2-51

J. M. PANDYA,
General Manager, Saurashtra Railway.

CHITTARANJAN LOCOMOTIVE WORK

NOTIFICATIONS

Chittaranjan, the 14th September 1951

No. GMA/GS/33.—Mr. S. G. Iyer, officiating Executive Engineer, Chittaranjan Locomotive Works, Chittaranjan, was granted 60 days' leave on average pay with effect from 19th May, 1951 to 17th July, 1951.

No. GMA/GS/65.—Mr. M. S. Garudachar, temporary Assistant Electrical Engineer, C.L.W., Chittaranjan, was granted 42 days leave on average pay with effect from 13th July 1951.

No. GMA/GS/90.—Mr. V. R. Garaty, a Class III employee of Chittaranjan Locomotive Works, Chittaranjan, was appointed to officiate as Assistant Electrical Engineer in Class II Service for the period from 30th April 1951 to 23rd June 1951 (A.N.).

No. GMA/GS/90.—Mr. N. L. Gupta, a Class III employee of Chittaranjan Locomotive Works, Chittaranjan, has been appointed to officiate as Assistant Engineer in Class II Service with effect from 30th June 1951 (A.N.).

No. GMA/GS/98.—Mr. P. Chowdhury, a Class III employee of C.L.W., Chittaranjan, has been appointed to officiate as Assistant Electrical Engineer in Class II Service with effect from the 13th July, 1951.

P. C. MUKERJEE,
General Manager.

PORT OF COCHIN

ORDER

Cochin, the 17th September 1951

No. A2-4586/51.—Sri A. N. Aiyaswami, Chief Accountant, Cochin Port, is granted leave on average pay for six days from 3rd September 1951 with permission to affix Sunday, the 9th September to the leave.

M. S. VENKATARAMAN,
Administrative Officer.

UNION PUBLIC SERVICE COMMISSION

Advertisement No. 39

Applications invited for undermentioned posts from Indian citizens and persons migrated from Pakistan with intention of permanently settling in India or subjects of Nepal, Sikkim or Portuguese or French possession in India. Upper age limit relaxable by 3 years for scheduled castes, tribal and aboriginal communities and displaced persons. No relaxation for others save in exceptional cases and in no case beyond three years. Particulars and application forms from Secretary, Union Public Service Commission, Post Box No. 186, New Delhi. Applications for forms must specify name of post. Closing date for applications with treasury receipt or crossed Indian Postal Order for Rs. 7/8/- (Re. 1/14/- for scheduled castes and tribes) 27th October, 1951. (10th November, 1951 for applicants abroad). Commission may remit genuinely indigent and bona fide displaced persons' fee. Separate application with separate fee required for each post. Candidates abroad may apply on plain paper if forms not available and deposit fees with local Indian Embassy. If required candidates must appear for personal interview.

1. Fourteen Assistant Works Managers, Under Training
(a) Production Chemists—11, (b) Metallurgical—2 and (c)

Clothing Technician—1, Directorate General, Ordnance Factories.—Temporary but likely to become permanent. Pay :—Rs. 350—350—380—380—410. On satisfactory completion of training and subject to existence of vacancies, selected candidates appointed as Assistant Works Managers on Rs. 410—30—590—E.B.—30—770—40—850. Age :—Below 25 years. Relaxable for permanent Government servants in Ordnance Factories. Qualifications :—Essential—For (a) :—Master's or equivalent Honours degree in Chemistry of recognised University or equivalent. OR Degree in Chemical Engineering or Technology of recognised University. OR Associateship of Royal Institute of Chemistry, England. OR Corporate Membership of Institute of Chemical Engineers, London. For (b) :—Degree in Metallurgy of recognised University or equivalent. For (c) :—(i) Must have passed at least Intermediate Examination in Science of recognised University or Cambridge School 'A' Certificate or Higher Diploma of Mayo College, Ajmer. (ii) Must have passed apprenticeship course in tailoring and cutting from Ordnance Clothing Factory, Shahjahanpur or have obtained diploma or degree in tailoring and cutting of recognised University or institution after attending full-time course of not less than 3 years. (iii) About 3 years service experience in responsible position in military clothing factory or establishment engaged in mass production of clothing stores.

2. One Assistant Conservator of Forests, Andaman Forest Department.—Temporary but likely to continue. Pay :—Rs. 275—25—500—E.B.—30—650—E.B.—30—800. plus Andamans special pay 40 per cent. of pay if employer in North Andamans and 33 1/3 per cent. of pay if employed in South Andamans. Age :—Below 35 years. Qualifications :—Essential—Degree of recognised University in Forestry or Forest Exploitation or must have successfully completed Superior Forest Service Course at Dehra Dun (i.e. Diploma Course).

3. One Director, Central Drugs Laboratory.—Permanent but appointment made on temporary basis for 5 years at present. Pay :—Rs. 1,600—100—2,000. No private practice of any kind allowed. Age :—Between 35 and 45 years. Relaxable for Government servants. Qualifications :—Essential—(i) Doctorate degree in Chemistry or Pharmaceutical Chemistry or Pharmacology or Bacteriology or Medicine of a recognised University, with active participation in research including ability to direct research. (ii) About 6 years' training or experience in methods of drug-testing and standardization. (iii) Adequate administrative experience, preferably in laboratory with experience in setting up and running laboratory and co-ordinating activities of different branches and sections of it.

4. One permanent Assistant Drugs Controller (India).—Pay :—Rs. 600—40—1,000—1,000—1,050—1,050—1,100—1,100—1,150. No private practice of any kind allowed. Age :—Below 40 years. Relaxable for Government servants. Qualifications :—Essential—(i) (a) Post-graduate degree in Chemistry or Pharmaceutical Chemistry or Pharmacy of recognised Indian or foreign University. In case of candidates possessing desirable qualification (i) ordinary degree acceptable. OR (b) Membership of Pharmaceutical Society of Great Britain. (ii) Adequate practical experience in manufacture and testing of drugs. Desirable :—(i) Experience in working of Drugs Act, 1940. (ii) Knowledge of import regulations relating to and experience in import of drugs.

P. K. KAPRE,
Deputy Secretary,
Union Public Service Commission.

